

CALIFORNIA COASTAL COMMISSION

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posted on November 13, 2007.



W10a

DATE: October 29, 2007

TO: Commissioners and Interested Persons

FROM: Jack Ainsworth, Deputy Director
Gary Timm, District Manager
Steve Hudson, Planning and Regulation Supervisor
Shana Gray, Coastal Program Analyst

SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-2-06 (Noticing and Appeals) for Public Hearing and Commission Action at the November 14, 2007, Commission Meeting in San Diego.

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 public noticing and appeal process requirements. The submittal was deemed complete and filed on October 16, 2006. At its December 2006 Commission meeting, the Commission extended the time limit to act on Local Coastal Program Amendment 2-06 for a period not to exceed one year. The last Commission hearing within this time frame is the December 2007 Commission meeting.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission reject the proposed amendment and approve it only if modified so that the ordinances will be consistent with and adequate to carry out the certified LUP and meet the noticing and appeal procedural requirements established under the Commission's Regulations. The motions are found on **page 7** of this report.

Staff is recommending 24 suggested modifications, many of which are primarily necessary for clarification and/or accurate referencing. However, substantively, these suggested modifications also: (1) reject the County's proposal to make an applicant responsible for fulfilling many of the mailed noticing requirements that the County is currently responsible for (Suggested Modifications 7 and 8); (2) clarify when the County may reject an appeal (Suggested Modification 18); and (3) update the definition of development that is appealable to the Coastal Commission to more accurately reflect the requirement of Coastal Act Section 30603.

However, the primary substantive change is accomplished by Suggested Modification 24 (see changes in Exhibit 7) which addresses the different methods of processing coastal development permits, conditional use permits, development plans, and land use permits. These changes are intended to address errors and inefficiencies within the current system of implementation that may adversely impact the public's ability to participate fully in the decision-making process for development within the coastal zone.

The minimum requirements for noticing local Coastal Development Permit applications and approvals are established by Sections 13560 – 13572 of Title 14 of the California

Code of Regulations. In addition, Section 30603 of the Coastal Act guides the implementation of appeals after certification of a local coastal program. However, the existing noticing and appeal procedural requirements of the Local Coastal Program (LCP), and the local methods for implementing them, raise question regarding the LCP's conformance with these statewide standards. Potential inconsistencies include, but are not limited to, the following:

- ❖ The County may send multiple appealable Notices of Final Action (NOFA) to the Coastal Commission for the same project, potentially leading to more than one appeal, at a subsequent date, of the same project.
- ❖ Some Coastal Development Permits (CDPs) that meet the definition of appealable are not receiving a public hearing.

As a result, issues have arisen on several occasions regarding how Santa Barbara County processes Coastal Development Permits, Conditional Use Permits (CUPs), and Development Plans (DPs), and subsequently the receipt of appealable notices of final action by the Commission for CUPs, CDPs, and DPs. The resolution of certain of these processing issues must be addressed in the subject amendment, which proposes to further codify the current approach for processing these items at the County.

Rather than further clarifying and implementing the same imperfect method of processing CDPs used today regarding appeal procedures and noticing as proposed under the subject amendment, the Commission and County staffs have worked together to create a solution to these processing issues, as demonstrated in Exhibit 7.

The Commission finds that Suggested Modification 24 is necessary to ensure implementation of the applicable provisions of the LCP and to implement the Coastal Act and Commission's regulations regarding noticing and appeals procedures. Suggested Modification 24 implements the proposed modifications shown in Exhibit 7. Suggested Modification 24 includes significant processing clarifications and reorganization of Section 35-169, Coastal Development Permits; Section 35-172, Conditional Use Permits; Section 35-174, Development Plans; and Section 35-178, Land Use Permit.

Suggested Modification 24 reorganizes these sections specifically to:

- ❖ Require Notices of Final Action (NOFAs) only for Coastal Development Permits, rather than receiving notices for Conditional Use Permit or Development Plans.
- ❖ Ensure that all final actions on Coastal Development Permits that are appealable to the Coastal Commission receive a recent public hearing (except for residential second units which do not require hearings pursuant to State Law) as required in Sections 13566 and 13571 of the Commission's regulations.
- ❖ Eliminate all references to "follow-up" Coastal Development Permits.
- ❖ Use Land Use Permits to clear prior-to-issuance conditions, rather than Coastal Development Permits.

- ❖ Process Coastal Development Permits concurrently and in conjunction with any applicable Conditional Use Permits or Development Plans.
- ❖ Modify the expiration date of Coastal Development Permits that are issued in connection with a Conditional Use Permit or Development Plan. In such cases, the Coastal Development Permit may be extended at the discretion of the Director two additional, two-year periods for cause provided that the project can still be found to be consistent with the LCP.

Substantive File Documents: Santa Barbara County Coastal Plan; Santa Barbara County Coastal Zoning Ordinance, Article II, Chapter 35 of the County Code; Resolution No. 06-026 of the Board of Supervisors, County of Santa Barbara, State of California, *In the Matter of Recommending Amendments to the Santa Barbara County Coastal Zoning Ordinance to Amend Division 7, General Regulations, Division 11, Permit Procedures, and Division 12, Administration, to amendment the Noticing Procedures Regarding the Provision of Mailed and Posted Notice for Proposed Development*, passed, approved and adopted January 24, 2006; Ordinance 4594, Case Number 05ORD-00000-00016, adopted by Board of Supervisors January 24, 2006; Resolution No. 06-027 of the Board of Supervisors, County of Santa Barbara, State of California, *In the Matter of Recommending Amendments to the Santa Barbara County Coastal Zoning Ordinance to Amend Division 2, Definitions, Division 6, Parking Regulations, Division 7, General Regulations, Division 10, Nonconforming Structures and Uses, Division 11, Permit Procedures, and Division 12, Administration to Amend the Existing Definition of Director; Revise the Existing Appeal Procedures and Regulations, and Make Other Minor Revisions*, passed, approved and adopted January 24, 2006; Ordinance 4595, Case Number 05ORD-00000-00019, adopted by Board of Supervisors January 24, 2006.

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EXHIBITS

Exhibit 1.	Board of Supervisors Resolution 06-026 (Noticing)
Exhibit 2.	Board of Supervisors Resolution 06-027 (Appeals)
Exhibit 3.	Santa Barbara County Ordinance 4594 (Noticing)
Exhibit 4.	Santa Barbara County Ordinance 4595 (Appeals)
Exhibit 5.	Noticing Procedures - Showing Edits
Exhibit 6.	Appeals Procedures – Showing Edits
Exhibit 7.	Additional changes to proposed amendment pursuant to Suggested Modification 24

Additional Information: Please contact Shana Gray, California Coastal Commission, South Central Coast Area, 89 So. California St., Second Floor, Ventura, CA. (805) 585-1800.

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (California Public Resources Code Section 30513)

The standard of review for the proposed amendments to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 ("proposed amendments to a certified [LCP] shall be submitted to,

and processed by, the commission in accordance with the applicable procedures ... specified in Sections 30512 and 30513...) of the Coastal Act, is that the Commission must approve it unless the proposed amendment is not in conformance with, or is inadequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program. 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.

Title 14, California Code of Regulations (C.C.R), Section 13560 specifies:

The provisions of this Article [Article 17 Local Coastal Program Implementation Regulations] shall constitute minimum standards of notice and hearing requirements for local governments and for the Commission in reviewing development projects after certification of a local coastal program.

This LCP Amendment directly modifies the implementation of the noticing and appeal procedures for coastal development permits and therefore must be reviewed for consistency with the noticing and appeal procedural requirements established under Article 17 of the Commission's Regulations (Sections 13560 -13572). The noticing and hearing requirements specified in Article 17 are the basis to ensure that the Implementation Plan is adequate to carry out the provisions of the Land Use Plan.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County held a series of public hearings (Montecito Planning Commission Hearing 12/21/05, County Planning Commission Hearing 1/4/06, and Board of Supervisors Hearing 1/24/06) and received verbal and written comments regarding the project from concerned parties and members of the public. The hearings were noticed to the public consistent with Sections 13515 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations ("14 CCR"), the County, by resolution, may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because staff is recommending that this approval be subject to suggested modifications by the Commission, if the Commission approves this Amendment as recommended, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (14 CCR §§ 13544, 13555(b), and Section 13542(b)). Pursuant to Section 13544, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission reject the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-2-06 as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-2-06 and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted.

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission certify County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-2-06 if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT
WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-2-06 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program Amendment if modified as suggested 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 Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

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

The staff recommends the Commission certify the following, with the modifications as shown below. The proposed amended language to the certified LCP Implementation Plan is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

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. 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. Large Family Day Care Home Noticing

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

Large Family Day Care Homes shall be considered a residential use pursuant to this Article, provided that prior to the ~~issuance~~ approval of a Coastal Development Permit, the Zoning Administrator shall make the following findings:

1. The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.
2. The property is located more than three hundred (300) feet from any other Large Family Day Care Home and approval will not result in over concentration.
3. The noise levels, including noise generated by the children, is consistent with the Noise Element of the Comprehensive Plan.

~~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 is final unless appealed in compliance with Section 35-327182.3 (Appeals).

~~Large Family Day Care Homes shall be considered a residential use pursuant to this Article, provided that the use meets all of the following criteria:~~

- ~~1. The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.~~
- ~~2. The property is located more than 300 feet from any other Large Family Day Care Home and approval will not result in over concentration.~~
- ~~3. The noise level, including noise generated by the children, is consistent with the Noise Element of the Comprehensive Plan.~~

~~Review of Large Family Day Care Homes pursuant to this Section is a ministerial action exempt from the California Environmental Quality Act, unless the approval is subject to Sec. 35-169.5. Notice of the application and pending decision on a Coastal Development Permit shall be given in compliance with Sec. 35-181.3.~~

3. Non-Residential Child Care Center Noticing

Sec. 35-143.3. Non-Residential Child Care Centers.

~~Non-Residential Childcare Facilities shall be permitted in the C-2, General Commercial and C-1 Limited Commercial zone districts with a Coastal Development~~

Permit (i.e., no development plan) provided that the facility meets all of the following criteria:

1. ~~The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.~~

2. ~~The ambient noise level does not exceed those standards in the Noise Element for sensitive land uses (e.g., residences and schools).~~

3. ~~Outdoor play areas are separated from abutting uses by a solid masonry wall not less than four feet in height.~~

4. ~~The proposed child care center is compatible with on-site and abutting commercial uses, as determined by the Planning & Development Department.~~

5. ~~The number of students does not exceed 30 and the total gross square footage of the facility including outdoor play areas does not exceed 5,000 square feet.~~

~~Review of Non-Residential Child Care facility pursuant to this Section is a ministerial action which is exempt from the California Environmental Quality Act, unless the approval is subject to Sec. 35-169.5. Notice of the application and pending decision on a Coastal Development Permit shall be provided in compliance with Sec. 35-181.~~

4. Coastal Development Permit Noticing

~~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).

5. Minimum Noticing for Public Hearing and Decision-Maker Actions

Sec. 35-181.2 Notice of Public Hearing and Decision-Maker Action

1. Minimum Requirements. ~~Except for decisions on Coastal Development Permits not subject to the requirements of Sec. 35-169.5 (Coastal Development Permits) and Land Use Permits, a~~Notice shall be given in compliance with Section 65090 – 65096 of the Government Code for all projects that require a noticed public hearing or notice of decision ~~by the Director~~ maker action (e.g., Amendment to Condition Use and the following minimum requirements:

a. Newspaper publication. Notice shall be published in at least one newspaper of general circulation within the County and circulated in the area affected by the project at least 10 calendar days before the scheduled public hearing or action by the decision-maker.

- b. Mailed notice.** Notice shall be mailed at least 10 calendar days before the scheduled hearing or action by the decision-maker to:
- 1) Any person who has filed a written request for notice and has supplied the Planning and Development Department with self-addressed stamped envelopes;
 - 2) The applicant(s);
 - 3) Owners of the subject lot, if different from the applicant;
 - 4) Owners of property located within a 300-foot radius of the exterior boundaries of the subject lot. The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
 - 5) Residents located within a 100-foot radius of the exterior boundaries of the subject lot.
 - 6) The Coastal Commission.
 - 7) Mailed notice shall be provided to all residents located within a 300-foot radius of the exterior boundaries of the subject lot of an application for a commercial telecommunication facility, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3 (Commercial Telecommunication Facilities).

...

6. Noticing Requirements for Continued Hearings

Sec. 35-181.2 Notice of Public Hearing and Decision-Maker Action

...

3. Continuances. If a public hearing on a project is continued by the local government to a time which is neither (a) previously stated in the notice nor (b) announced at a hearing as being continued to a time certain, notice of the further hearings shall be provided in the same manner and within the same time limits as set forth above.

7. Applicant Noticing Responsibilities

Sec. 35-181.3. Coastal Development Permit and Land Use Permit Noticing.

1. Minimum Requirements. Notice of a-the application and pending decision on a Coastal Development Permit for development that is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) not subject to the special hearing requirements of Sec. 35-169.5 (Coastal Development Permits) and Land Use Permits that do not following a previous discretionary action shall be given in compliance with the following:

- a. By the Planning and Development Department.** Notice shall be given by the Planning and Development Department in compliance with the following:

1) The Planning and Development Department shall conspicuously post notice at one public place within the County's jurisdiction (e.g., at the Planning and Development Department).

2) Said notice shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.

3) Said notice shall be posted pursuant to Subsection 1) above and/or mailed no later than 15 days following the filing of a complete application with the Planning and Development Department, but in no case shall said notice be posted or mailed less than:

a) 10 days before the scheduled date of ~~any~~ the initial review by the Board of Architectural Review, or;

b) ~~10 days following the decision on the permit.~~ Seven days before an action by the Director to approve, conditionally approve or deny a Coastal Development Permit or Land Use Permit.

4) ~~Said~~ The posted notice shall be required to be continuously posted ~~for a minimum of 17 days from the date required by Subsection 3), above and shall remain posted for a minimum of 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.~~

~~b. By the applicant. Notice of an application and pending decision on a Coastal Development Permit shall be given by the applicant in compliance with the following:~~

~~45)~~ Mailed notice shall be provided to the applicant(s).

6) Mailed notice shall be provided to the owner(s) of the subject lot, if different from the applicant.

7) Mailed notice shall be provided to all owners and residents located within a 100-foot radius of the exterior boundaries of the subject lot.

8) Mailed notice shall be provided to and the Coastal Commission.

~~29) Mailed notice shall be provided to all owners of property located within a 300-foot radius of the exterior boundaries of the subject lot for the specific types of projects listed below. The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.~~

a) Development that requires Design Review in compliance with Sec. 35-184 (Board of Architectural Review);

b) A new dwelling containing two- or three-story elements or a second or third story addition to an existing dwelling;

c) A new accessory structure in excess of 120 square feet or an addition to an existing accessory structure that would exceed 120 square feet;

- d) A change in the allowed use of a structure;
- e) Home occupations where clients come to the dwelling where the home occupation is conducted;
- f) Residential second units, and additions thereto, as may be allowed in compliance with Sec. 35-142~~84~~ (Residential Second Units.);
- g) Large Family Day Care Homes, and additions thereto, as may be allowed in compliance with Sec. 35-143.2 (Community Care Facilities);
- ~~h) Non-residential Child Care Centers, and additions thereto, as may be allowed in compliance with Sec. 35-143.3 (Community Care Facilities);~~
- ih) Commercial telecommunication facilities, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3.1 (Commercial Telecommunication Facilities); and
- ji) Noncommercial telecommunication facilities as may be allowed in compliance with Sec. 35-144G.3.1 (Noncommercial Telecommunication Facilities) where the height of the antenna and associated support structure exceeds 50 feet.

~~310)~~ Mailed notice shall be provided to all residents located within a 300-foot radius of the exterior boundaries of the subject lot of an application for a commercial telecommunication facility, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3.1 (Commercial Telecommunication Facilities).

~~4) For all other types of projects that require a Coastal Development Permit and are not included under Subsections 2), and 3), above, notice shall be provided in compliance with the following:~~

- ~~a) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.~~

~~511)~~ The names and addresses used for such mailed notices to owners shall be those appearing on the equalized County assessment roll, as updated from time to time.

12) The contents of the notice shall be in compliance with Sec. 35-181.4.

b. By the applicant. Notice shall be given by the applicant in compliance with the following:

- 1) The applicant shall conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.

~~62)~~ The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.

~~73)~~ Said notice shall be ~~mailed and~~ posted by the applicant no later than 15 days following the filing of a complete application to with the Planning and

Development Department, but in no case shall said notice be ~~mailed and~~ posted less than:

- a) 10 days before the scheduled date of ~~any the initial~~ review by the Board of Architectural Review; or
- b) Seven days before an ~~following an~~ action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.

~~84)~~ Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection ~~73)~~, above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.

~~95)~~ The applicant shall provide proof of the ~~mailing and~~ posting of the required notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department no later 10 days before the scheduled date of ~~any the initial~~ review by the Board of Architectural Review or seven days before ~~following an~~ action by the Director to approve, conditionally approve, or deny the Coastal Development Permit. Failure of the applicant to comply with this Section may result in denial and or revocation of the Coastal Development Permit or Land Use Permit.

...

8. Minimum Requirements for Land Use Permits Following Discretionary Actions

Sec. 35 181.3. Coastal Development Permit and Land Use Permit Noticing.

...

2. Minimum requirements for ~~Coastal Development Permits and~~ Land Use Permits following a previous discretionary action.

Notice of a pending decision on a ~~Coastal Development Permit or~~ Land Use Permit following a previous discretionary action and with the same project description shall be given in compliance with the following:

- a. **By the Planning and Development Department.** Notice shall be given by the Planning and Development Department in compliance with the following:
 - 1) The Planning and Development Department shall conspicuously post notice at one public place within the County's jurisdiction (e.g., at the Planning and Development Department).
 - 2) Said notice shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.
 - 3) Said notice shall be mailed and posted no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be mailed and posted less than:

a. 10 days before the scheduled date of any ~~the initial~~ review by the Board of Architectural Review; or

b. 10 days before following an action by the Director to approve, conditionally approve, or deny the ~~Coastal Development Permit or Land Use Permit.~~

4) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 3), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the ~~Coastal Development Permit or Land Use Permit.~~

~~b. By the applicant. Notice of an application and pending decision on a Coastal Development Permit or Land Use Permit shall be given by the applicant in compliance with the following:~~

45) Mailed notice shall be provided to all owners and residents located within a 100-foot radius of the exterior boundaries of the subject lot and the Coastal Commission.

26) Mailed notice shall be provided to all parties that received notice of the previous discretionary action.

~~3) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.~~

47) The names and addresses used for ~~such~~ mailed notices to owners shall be those appearing on the equalized County assessment roll, as updated from time to time.

58) The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.

b. By the applicant. Notice of an application and pending decision on a Land Use Permit shall be given by the applicant in compliance with the following:

1) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.

2) The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.

63) Said notice shall be ~~mailed and~~ posted by the applicant no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be ~~mailed and~~ posted less than:

a. 10 days before the scheduled date of any ~~the initial~~ review by the Board of Architectural Review; or

b. 10 days before ~~following~~ an action by the Director to approve, conditionally approve, or deny the ~~Coastal Development Permit or Land Use Permit~~.

~~74)~~ Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection ~~63~~), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the ~~Coastal Development Permit or Land Use Permit~~.

~~85)~~ The applicant shall provide proof of the mailing and posting of the required notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department no later 10 days before the scheduled date of any review by the Board of Architectural Review or 10 days before ~~following~~ an action by the Director to approve, conditionally approve, or deny the ~~Coastal Development Permit or Land Use Permit~~. Failure of the applicant to comply with this Section may result in denial and or revocation of the ~~Coastal Development Permit or Land Use Permit~~.

...

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 date of the pending decision on the Coastal Development Permit or Land Use Permit, and 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 of public comments on the

requested subject Coastal Development Permit or Land Use Permit, ~~excluding permits that follow a previous discretionary approval.~~

10. Accessory Structure Reference

Section 35-119.9 Accessory Structures

9. Accessory buildings and structures shall not be used for sleeping purposes and shall not be used as guest houses, artist studios, or cabañas, unless specifically permitted for such use. An accessory building or structure, or portion thereof, including guest houses, artist studios and cabanas, may be determined to constitute a dwelling by the Director when it is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of bathing facilities, closets, countertops or cupboards, dishwashers, exterior entrances, exterior staircases, garbage disposals, interior locking doors, separate addresses/mail box designations, separate balconies, decks, patios or yards, separate cable lines, phone lines or utility lines, separate carports, garages or parking areas (covered or uncovered), sleeping lofts, toilets, and sinks or bar sinks. Issuance of a building permit or other approval does not, of itself, establish that a building or portion thereof is not a dwelling unit. Said determination by the Director is considered a decision of the Director that may be appealed in compliance with Sec. 35-489182 (Appeals). If, after appeal to the Planning Commission and, if required, the Board of Supervisors the determination that the accessory building or structure, or portion thereof constitutes a dwelling is maintained, then the dwelling may be subject to an enforcement action pursuant to Sec. 35-185 (Administration – Enforcement, Legal Procedures and Penalties) as appropriate.

11. Residential Second Unit Appeals

Sec. 35-142.9. Appeals.

The decision of the Director to approve or conditionally approve an application for a residential second unit is final subject to appeal in compliance with Sec. 35-489182 (Appeals). 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 applicable provisions and policies of ~~this Article and the Coastal Land Use Plan, the certified local coastal program or that the development does not conform to the public access policies set forth in the Coastal Act (Public Resources Code, Division 20).~~ The decision of the Director to deny an application for a residential second unit is final subject to appeal in compliance with Sec. 35-182 (Appeals). 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 in compliance with Section 35-182 (Appeals).

All decisions to approve, or conditionally approve, residential second units shall be subject to appeal to the California Coastal Commission pursuant to Section 35-182.6.d.

12. Telecommunication Facilities Reference

Sec. 35-144.F.5.3

3. Collocation. Following initial approval of a telecommunication project, the permittee shall avail its facility to other prospective applicants and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following limits:

...

- e. In the event access to an existing facility is denied by the applicant, and at the request of the carrier requesting to collocate, the applicant shall submit to the Director of Planning and Development terms, including financial terms, under which other carriers in the area would be permitted to enter and use either the facilities or the property. In addition, the applicant shall submit a record of the typical financial terms used for similar facilities at other locations. The applicant shall submit the requested information to the Director of Planning and Development within 30 days of such request. If these terms are determined to be unacceptable to potential users of the facility and if agreement cannot be reached, the County shall reserve the right to impose additional conditions as described above by the Director to amend the permit. The imposition of such conditions shall be based on evidence of the charges and terms supplied by the applicant and the carrier requesting to collocate. The decision of the Director to impose additional conditions is final subject to appeal in compliance with Sec. 35-~~489~~182 (Appeals). The intent of this condition is to ensure the efficient and maximum use of collocated telecommunication facilities in the County.

13. Wildlife Species Rehabilitation Reference

Sec. 35-144.I.4

- 4. Development standards: All wildlife species rehabilitation shall comply with the following development standards.

...

- d. The wildlife species rehabilitation shall be conducted in a manner that is not injurious to the health, safety, or welfare of the neighborhood and does not create offensive noise or odor as determined by the Director after advice from the County Public Health Department. If the Director determines that the wildlife species rehabilitation is injurious to the health, safety, or welfare of the neighborhood and/or does create offensive noise or odor, the Director may order the cessation of such wildlife species rehabilitation activities. This decision of the Director is final subject to appeal in compliance with Sec. 35-~~489~~182 (Appeals).

14. Coastal Development Permit Appeal Procedures

~~Sec. 35-169.4.3~~

~~3. The decision of the Director to approve, conditionally approve or deny a Coastal Development Permit not subject to the additional requirements of Section 35-169.5. (Special Processing for Coastal Development Permits within a Geographic Appeals Area or for a Major Public Works Project) is final subject to appeal in compliance with Sec. 35-182 (Appeals).~~

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(c) in Exhibit 24).

~~Sec. 35-169.5.3~~

~~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 is final subject to appeal in compliance with 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.~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section been renumbered and superseded by Section 35-169.4.2 (c)(d)(e) & (f) in Exhibit 24).

15. Conditional Use Permit Appeal Procedures

~~Sec. 35-172.7.4~~

~~4. The action of the Planning Commission or Zoning Administrator is final subject to appeal in compliance with Sec. 35-182 (Appeals). Under PRC Section 30603, the issuance of a Coastal Development Permit on a conditionally permitted use is appealable to the Coastal Commission as provided in Sec. 35-182.4 (Appeals).~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section has been renumbered and superseded by Section 35-172.7.6 in Exhibit 24).

16. Development Plan Appeal Procedures

~~Sec. 35-174.4.4~~

~~4. If the Preliminary Development Plan is under the jurisdiction of the Director as provided in Sec. 35-174.2, a public hearing shall not be required. However, notice~~

~~shall be given at least 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 Preliminary Development Plan. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section has been renumbered and superseded by Section 35-174.4.4.a in Exhibit 24).

~~Sec. 35-174.4.5~~

~~5. The Planning Commission or Zoning Administrator shall consider Preliminary Development Plans within their jurisdiction at a noticed public hearing and approve, conditionally approve, approve with modification of development standards, or deny the plan. The action of the Planning Commission or Zoning Administrator is final subject to appeal in compliance with Sec. 35-182 (Appeals).~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section has been renumbered and superseded by Section 35-174.4.4.b in Exhibit 24).

~~Sec. 35-174.6.3~~

~~3. When the Board of Supervisors, Planning Commission, Zoning Administrator, or Director has approved the Preliminary Development Plan, the Director shall review the Final Development Plan to determine that the plan is in substantial conformity with the Preliminary Development Plan, pursuant to the provisions set forth in this Section. The Director shall approve, conditionally approve, or deny the Final Development Plan, without a public hearing. Notice shall be given 10 days prior to the Director's decision pursuant to Section 35-181. The Director's action shall be final subject to appeal in compliance with Section 35-182 (Appeals).~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section has been renumbered and superseded by Sections 35-174.6.4, 35-174.6.5(a), and 35-174.7.2.a in Exhibit 24).

17. Land Use Permit Appeal Procedures

~~Sec. 35-178.4.4~~

~~4. The decision of the Director to approve, conditionally approve, or deny a Land Use Permit shall be final subject to appeal in compliance with Sec. 35-182 (Appeals).~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section has been renumbered and superseded by Section 35-178.4.2 in Exhibit 24).

18. Appeal Procedures For Local Decisions

Sec. 35-182.2. General Appeal Procedures.

~~Except for those actions on Coastal Development Permits which may be appealed to the Coastal Commission as provided under Sec. 35-182.5, t~~The decisions or determinations of the Board of Architectural Review, Director, Planning Commission, or Zoning Administrator may be appealed as consistent with the following procedures. (In addition, final action on Coastal Development Permits may be appealed to the Coastal Commission, where applicable, in compliance with Section 35-182.6). follows:

A. Who May Appeal.

~~An appeal may only be filed by an applicant or any aggrieved person or any two members of the Coastal Commission. An aggrieved person is defined as any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing or decision, informed the decision-maker of the nature of his concerns or who for good cause was unable to do either.~~

B. Timing and Form of Appeal.

1. Appeals of decisions of the Board of Architectural Review, Director, Planning Commission or Zoning Administrator.

a. An appeal of a decision of the Board of Architectural Review, Director, Planning Commission or Zoning Administrator shall be filed within the 10 calendar days following the decision or determination that is the subject of the appeal except as otherwise provided in this Article.

b. The appellant shall use the form provided by the Department in addition to any other supporting materials the appellant may wish to furnish in compliance with Sec. 35-182.2.C, explaining the reasons for the appeal. An appeal shall be filed with the Director, who shall process the appeal in compliance with this section, including scheduling the matter before the appropriate decision-maker.

2. Computation of time for appeal. The time within which the appeal shall be filed shall commence on the next calendar day following the day on which the decision was made or the determination was made. In the event the last day for filing an appeal falls on a non-business day of the County, the appeal may be timely filed on the next business day.

C. Requirements for Contents of an Appeal.

1. General requirements. The appellant shall specifically provide in the appeal all of the following:

- a. The identity of the appellant and her or his interest in the decision;
- b. The identity of the decision or determination appealed which may include the conditions of that decision or determination;

c. A clear, complete, and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the Coastal Land Use Plan, this Article, or other applicable law;

d. If it is claimed that there was error or abuse of discretion on the part of the Board of Architectural Review, Director, Planning Commission, Zoning Administrator, or other officer or authorized employee, or that there was a lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration leading to the making of the decision or determination that is being appealed, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made, then these grounds shall be specifically stated.

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.

a. **Appeals Regarding a Previously Approved Discretionary Permit.** If the approval of a ~~Coastal Development Permit~~ or Land Use Permit required by a previously approved discretionary permit is appealed, the appellant shall identify:

- (1) How the ~~Coastal Development Permit~~ or Land Use Permit is inconsistent with the previously approved discretionary permit, or
- (2) How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a ~~Coastal Development Permit~~ or Land Use Permit have not been completed, or
- (3) How the approval is inconsistent with Section 35-181 (Noticing).

b. **Appeals of Final Decision of the Board of Architectural Review.** A decision of the Board of Architectural Review to grant final approval may not be appealed to the Planning Commission unless the appellant can demonstrate that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval. If the Director determines that the appeal does not raise a substantial issue that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval, then the Director shall make that determination in writing, and the appeal shall not be processed. This decision of the Director is final and not subject to appeal.

D. Acceptance of Appeal. An appeal ~~may~~ 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 requirements of Sec. 35-182.2.C.

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

E. Appeal Fees. The appellant shall pay the required filing fee, as established from time to time by resolution of the Board of Supervisors, at the time of the filing of the appeal.

F. Effect of Filing of Appeal. The filing of the appeal shall have the effect of staying the issuance of any permit or approval provided for by the terms of this Article until such time as final action has occurred on the appeal.

G. Notice of Public Hearing Required. Notice of the time and place of the hearing shall be given in compliance with Sec. 35-181 (Noticing). Notice shall be mailed to the appellant and the applicant, if different than the appellant.

H. Special Processing Requirements. The following requirements apply to applications for ~~Zoning Clearance~~ and Coastal Development Permits or Land Use Permits that also require review by the Board of Architectural Review:

1. If a preliminary approval by the Board of Architectural Review is appealed, then the hearing on the appeal shall be held after the approval of the ~~Zoning Clearance or Coastal Development Permit~~ or Land Use Permit, but prior to the issuance of the Coastal Development Permit or Land Use Permit for such project.
2. If a preliminary approval by the Board of Architectural Review is appealed, and the approval of the Coastal Development Permit or Land Use Permit is appealed, then the appeal of the preliminary approval by the Board of Architectural Review shall be processed concurrently with the appeal of the Coastal Development Permit or Land Use Permit.
3. If a decision of the Board of Architectural Review to deny preliminary or final approval is appealed, a hearing shall be held on the appeal of the decision of the Board of Architectural Review prior to the decision on the ~~Zoning Clearance or Coastal Development Permit~~ or Land Use Permit.

19. Temporary Use Appeal Procedures

Sec. 35 182.3. Appeals to the Zoning Administrator.

A. Decisions appealed to the Zoning Administrator. The following decisions of the Director may be appealed to the Zoning Administrator:

1. Any decision by the Director to approve, approve with conditions, or deny an application for a Coastal Development Permit or Land Use Permit for temporary use in compliance with Sec. 35-137 (Temporary Uses) may be appealed to the Zoning Administrator ~~in compliance with Sec. 35-137.7.1.~~

~~**B. Public Hearing Required.** Notice of the time and place of the hearing shall be given in compliance with Sec. 35-137 (Temporary Uses). Notice shall be mailed to the appellant and the applicant, if different than the appellant.~~

CB. Action on Appeal. The Zoning Administrator shall affirm, reverse, or modify the decision of the Director. The action of the Zoning Administrator is final and not subject to appeal.

20. Planning Commission Appeals

Sec. 35-182.4. Appeals to the Planning Commission.

A. Decisions appealed to the Planning Commission. The following decisions may be appealed to the Planning Commission provided the appeal complies with the requirements of Sec. 35-182.2.C. and D.

1. Board of Architectural Review decisions. The following decisions of the Board of Architectural Review may be appealed to the Planning Commission:

- a. Any decision of the Board of Architectural Review to grant or deny preliminary approval.
- b. Any decision of the Board of Architectural Review to grant or deny final approval in compliance with Sec. 35-182.2.C.2.~~eb~~.

2. Director decisions. The following decisions of the Director may be appealed to the Planning Commission:

- a. Any determination on the meaning or applicability of the provisions of this Article;
- b. Any determination that a discretionary permit application or information submitted with the application is incomplete as provided by Government Code Section 65943;
- c. Any decision of the Director to revoke an approved or issued Land Use Permit.
- d. Any decision of the Director to approve, conditionally approve, or deny an application for a Coastal Development Permit except for Coastal Development Permit approved in compliance with Section 35-137 (Temporary Uses).
- e. Any decision of the Director to approve, conditionally approve, or deny an application for a Land Use Permit. ~~Any decision of the Director to revoke an approved Zoning Clearance.~~
- f. Any decision of the Director to approve, conditionally approve, ~~approve with conditions~~, or deny an application for a Development Plan.
- g. Any decision of the Director to approve, conditionally approve, ~~approve with conditions~~, or deny any other discretionary application where the Director is the designated decision-maker.
- h. Any other action, decision or determination made by the Director as authorized by this Article where the Director is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.

3. Zoning Administrator decisions. The following decisions of the Zoning Administrator may be appealed to the Planning Commission, except that when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan, the decision of the Zoning Administrator may be appealed to the Board of Supervisors.

a. Any decision of the Zoning Administrator to approve, approve with conditions, or deny an application for a Coastal Development Permit, Conditional Use Permit, Development Plan, Lot Line Adjustment, Modification, Variance, or other discretionary application where the Zoning Administrator is the designated decision-maker.

b. Any other action, decision or determination made by the Zoning Administrator as authorized by this Article where the Zoning Administrator is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.

...

21. Board of Supervisors Appeals

Sec. 35-182.5. Appeals to the Board of Supervisors.

A. Decisions appealed to the Board. The following decisions of the Planning Commission may be appealed to the Board of Supervisors provided the appeal complies with the requirements of Sec. 35-182.2.C. and D.

1. Any final action on decisions that are appealed to the Planning Commission in compliance with Sec. 35-182.4. (Appeals to the Planning Commission).

2. Any final action on decisions of the Planning Commission to approve, approve with conditions, or deny an application for a Coastal Development Permit, Conditional Use Permit, Development Plan, Lot Line Adjustment, Tentative Map, Variance, or other discretionary application where the Planning Commission is the designated decision-maker.

3. Any other action, decision or determination made by the Planning Commission as authorized by this Article where the Planning Commission is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.

4. Any decision of the Zoning Administrator to approve, approve with conditions, or deny an application for a Coastal Development Permit, Conditional Use Permit, Development Plan, Lot Line Adjustment, Modification, Variance, or other discretionary application where the Zoning Administrator is the designated decision-maker when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan.

5. Any other action, decision or determination made by the Zoning Administrator as authorized by this Article where the Zoning Administrator is the

decision-maker when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan except when specifically provided that such action, decision or determination is final and not subject to appeal.

...

- D. Action on Appeal.** The Board of Supervisors shall affirm, reverse, or modify the decision of the Planning Decision Commission.

...

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 to 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:

a. The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the Local Coastal Program.

b. An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision. For purposes of this section, a local ordinance requiring a prospective appellant to have made his/her views known in connection with the original decision prior to taking a local appeal, or otherwise to have exhausted local remedies at the local level prior to taking a local appeal, does not count as a "a local ordinance which restricts the class of persons who may appeal a local decision."

c. An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.

d. The local government jurisdiction charges an appeal fee for the filing or processing of appeals.

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:

- a. Developments approved by the County between the sea and the first public road paralleling the sea.
- b. Developments approved by the County ~~or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as indicated on the official County appeals zone maps.~~
- b.c. ~~Developments approved by the County not included within paragraphs (a) or (b) of this section that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, as indicated on the official County appeals zone map or as determined by the State Lands Commission.~~
- c.d. ~~Any development approved by the County that is not designated as the principal permitted use under the zoning ordinance or zoning district map. This includes, but is not limited to, d~~Developments approved by the County that require a Conditional Use Permit.
- d.e. ~~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.
 - ~~1) The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.~~
 - ~~2) The development fails to protect public views from any road or from a recreation area to, and along, the coast.~~

- ~~3) The development is not compatible with the established physical scale of the area.~~
- ~~4) The development may significantly alter existing natural landforms.~~
- ~~5) The development does not comply with shoreline erosion and geologic setback requirements.~~
- ~~6) The development is not in conformity with the Local Coastal Program.~~
- ~~b. The grounds of appeal for any development appealable under 23.b., c., and d., and e. of this section shall be limited to whether the grounds that the development is not in conformity with the Local Coastal Program.~~

23. Definition of Appealable Development

Section 35-58 (Definitions)

“Appealable Developments:”

1. Developments approved by the County between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is not beach, whichever is the greater distance, ~~as indicated on the official County appeals zone maps.~~
2. Developments approved by the County not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff, ~~as indicated on the official County appeals zone map or as determined by the State Lands Commission.~~
3. Any development approved by the County that is not designated as the principal permitted use under the zoning ordinance or zoning district map. This includes, but is not limited to, dDevelopments approved by the County that require a Conditional Use Permit (CUP).
4. Any development which constitutes a major public works project or a major energy facility.

24. Conditional Use Permit, Development Plan, Coastal Development Permit, and Land Use Permit Processing

Sections 35-169 (Coastal Development Permits), 35-172 (Conditional Use Permits), 35-174 (Development Plans) and 35-178 (Land Use Permits) of Article II of the certified Zoning Ordinance shall be revised consistent with the text changes specifically shown in Exhibit 7 of this staff report.

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

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. AMENDMENT DESCRIPTION

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 public noticing and appeal process requirements countywide.

1. Noticing

Santa Barbara County has submitted a proposed amendment (Ordinance 4594, Exhibit 3) to the certified Local Coastal Program that would modify and update noticing procedures for public hearings, decision-maker actions, appealable and non-appealable [to the Coastal Commission] coastal development permits, and land use permits. The County has indicated that a primary goal of the amendment is to alleviate some of the concerns associated with the late noticing that can occur during the review process by providing earlier noticing to neighbors such as: (1) expanding mailed notices to adjacent property owners and neighbors within 300 feet of the property boundary for projects that have historically demonstrated a strong likelihood for neighborhood controversy (e.g., second story additions and changes of use); and (2) providing mailed and posted notice within 15 days after the filing of a complete application with the Planning and Development Department, and in no case less than 7-10 days prior to a hearing or action by a decision-making body. The proposed amendment provides various other changes and clarifications such as: (1) shifting the responsibility of mailing notices to radius property owners from the County to the applicant, (2) reducing the required posting of the site from three notices to one conspicuously visible notice on the site; (3) eliminating the requirement for the local government to provide an additional notice if a public hearing on a project is continued and for which the date of the subsequent hearing was not announced or otherwise noticed; and (4) generally reorganizing the contents of notices and minimum noticing standards into three categories: required contents for all notices; required contents for projects that require a public hearing or discretionary action; and required contents for projects that do not require a public hearing or discretionary action.

Specifically, the County proposes to (Exhibit 3, Ordinance 4594):

1. Amend Section 35-142.8, Residential Second Units, to delete specific noticing procedures regarding residential second units and replace those procedures with a reference to the procedures outlined in Section 35-181 (Noticing).

2. Amend Section 35-143, Community Care Facilities, to delete specific noticing procedures regarding large family day care and non-residential child care centers and replace those procedures with a reference to the procedures outlined in Section 35-181 (Noticing).
3. Amend Section 35-35-144F.6.1, Commercial Telecommunication Facilities, to delete specific noticing procedures regarding commercial telecommunication facilities and replace those procedures with a reference to the procedures outlined in Section 35-181 (Noticing).
4. Amend Section 35-144G.5.1, Non-Commercial Telecommunication Facilities, to delete specific noticing procedures regarding non-commercial telecommunication facilities and replace those procedures with a reference to the procedures outlined in Section 35-181 (Noticing).
5. Amend Section 35-169.4.9, Coastal Development Permit, to delete specific noticing procedures regarding coastal development permits and replace those procedures with a reference to the procedures outlined in Section 35-181 (Noticing).
6. Amend Section 35-181.2, Noticing, to provide minor clarifications and re-organize the noticing procedures applicable to projects that require a public hearing. The list of minimum requirements is unchanged.
7. Amend Section 35-181.3, Noticing, to re-organize the noticing procedures applicable to coastal development permits and land use permits that do not require a public hearing. Relocates the required contents of public notices to Section 35-181.4. Places new responsibility for mailing notices on the applicant. Requires mailed notice to be sent to all owners of property located within a 300-foot radius of the exterior boundaries of the subject lot for specific types of projects, including development that requires Design Review; new dwellings containing two- or three-story elements or a second or third story addition to an existing dwelling; new accessory structures in excess of 120 square feet or an addition to an existing accessory structure that would exceed 120 square feet; changes in the allowed use of a structure; home occupations where clients come to the dwelling where the home occupation is conducted; residential second units, and additions thereto; Large Family Day Care Homes, and additions thereto; Non-residential Child Care Centers, and additions thereto; commercial telecommunication facilities, and additions thereto; and noncommercial telecommunication facilities where the height of the antenna and associated support structure exceeds 50 feet. Additionally, mailed notice shall be provided to all *residents* located within a 300-foot radius of the exterior boundaries of the subject lot of an application for a commercial telecommunication facility. This Section has further been amended to describe the minimum noticing requirements for coastal development permits or land use permits that follow a discretionary action.
8. Renumber Section 35-181.4 to Section 35-181.5.
9. Add Section 35-181.4, Noticing, to split the contents of notices into three categories: (1) required contents for all notices; (2) required contents for

projects that require a public hearing or discretionary action; and (3) required contents for projects that do not require a public hearing or discretionary action. Adds information requirements for projects that do not require a public hearing or discretionary action by the Director.

10. Renumber Section 35-181.5 to Section 35-181.6 and makes minor text changes.

2. Appeals

Santa Barbara County has submitted a proposed amendment (Ordinance 4595, Exhibit 4) to the certified Local Coastal Program that would modify and update the appeals procedures including the grounds for appeal, rejection of appeals, decisions of the Board of Architectural Review that may be appealed, decisions of the Director that may be appealed, and jurisdiction on appeals of decisions of the Zoning Administrator and the Planning Commission. The proposed revisions would:

- Allow for the filing of appeals relating to the availability of significant new information that could not have been presented at the time of the decision being appealed.
- Allow for the rejection of appeals if sufficient grounds for appeal are not demonstrated.
- Allow for appeals of preliminary approvals by the Boards of Architectural Review (BAR) and limit appeals of the final BAR approval to projects that are denied or where the plans are not in substantial conformance with the previously approved preliminary plans.
- Where an approved discretionary project is followed by a Coastal Development Permit, limit appeals of the Coastal Development Permit to situations where the project allowed by the Coastal Development Permit is in substantial conformance with the project that received discretionary approval, where the conditions of approval have not been met, or if noticing requirements were not met.

Specifically, the County proposes to (Exhibit 4, Ordinance 4595):

1. Amend Section 35-58, Definitions, to expand the definition of the Planning Director to include designees of the Director.
2. Amend Section 35-96.3.5, View Corridor Overlay, to delete specific appeals procedures regarding projects designated under the view corridor overlay district and replace those procedures with a reference to the appeals procedures outlined in Section 35-182 (Appeals).
3. Amend Section 35-117.3, Parking Regulations, to delete specific appeals procedures regarding projects for appeals of the siting and/or design of driveways and replace those procedures with a reference to the appeals procedures outlined in Section 35-182 (Appeals).
4. Amend Section 35-119.9, Accessory Structures, to provide a specific reference to the appeals procedures outlined in Section 35-182 (Appeals).

5. Amend Section 35-137.7.1, Temporary Uses, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
6. Amend Section 35-142.9, Residential Second Units, to delete specific appeals procedures regarding projects for appeals of residential second units and replace those procedures with a reference to the appeals procedures outlined in Section 35-182 (Appeals). Delete the statement that all residential second units would be subject to appeal to the Coastal Commission.
7. Amend Section 35-144F.5.2, Commercial Telecommunications, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
8. Amend Section 35-144F.5.3, Commercial Telecommunications, to update references to the appeals procedures for collocation review of commercial telecommunications facilities as outlined in Section 35-182 (Appeals).
9. Amend Section 35-144I.4, Wildlife Species Rehabilitation, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
10. Amend Section 35-161.7, Nonconforming Structures and Uses, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
11. Amend Section 35-169.4.3, Coastal Development Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
12. Amend Section 35-169.5.3, Coastal Development Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
13. Amend Section 35-169.8, Coastal Development Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
14. Amend Section 35-169.9, Coastal Development Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
15. Amend Section 35-172.7.4, Conditional Use Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
16. Amend Section 35-173.5.3, Variances, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
17. Amend Section 35-174.4.4, Development Plans, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
18. Amend Section 35-174.4.5, Development Plans, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
19. Amend Section 35-174.6.3, Development Plans, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
20. Amend Section 35-176.4.3, Oil & Gas Exploration Plans, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
21. Amend Section 35-176.9.3, Oil & Gas Exploration Plans, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
22. Amend Section 35-177.6.4, Reclamation and Surface Mining Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).

23. Amend Section 35-178.4.4, Land Use Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
24. Amend Section 35-179.5.5, Land Use Permits, to update references to the appeals procedures outlined in Section 35-182 (Appeals).
25. Amend Section 35-182, Appeals, to provide more specific timeline that the appeal period begins on the day following the day on which the decision was made; allow additional claims for appeal such as lack of impartial hearing or evidence that significant new information is available that could not have been presented at the time the decision was made; limit the grounds for appeal of Coastal Development Permits (CDP) for projects that were issued another discretionary permit (e.g., Conditional Use Permit, Development Plan) to allegations that the CDP is inconsistent with the previous discretionary approval or that the prior-to-issuance conditions of the previous discretionary approval have not been met or that the approval of the CDP did not provide proper noticing; restrict appeals of final BAR decisions to cases where the final approval does not substantially conform to the preliminary approval; allow the Director to reject an appeal if it does not contain the required contents; clarify that mailed notice shall be sent to the appellant *and* applicant; clarify the governing appeal body for decisions made by the Director, Zoning Administrator, or Planning Commission.

B. EFFECT OF THE PROPOSED AMENDMENT

1. Noticing

The County found that a common concern about the review process, especially for small projects, is that the noticing occurs very late in the process after the applicant has spent considerable time and money on working drawings. Because noticing occurs late, appeals also occur late. The County reviewed the number and types of appeals that have been received in the past 5 years to assess the types of projects that are more often appealed and the issues that are typically raised in these appeals. The review indicated that appeals often involve neighborhood compatibility issues associated with two-story homes or additions, large accessory buildings, changes of use and certain home occupations. Amendment 2-06 proposes that those types of projects receive 300-foot radius noticing, rather than the existing 100-foot radius requirement. The intent is that providing earlier notice to neighbors would allow the applicant and neighbors to discuss the specifics of the project before the drawings are nearing completion.

Under the existing certified LCP, a site that is the subject of a Coastal Development Permit (CDP) application must be posted for a minimum of seven days prior to the final approval; or alternately, where CDPs follow a discretionary approval such as a Conditional Use Permit, the site must be posted at a minimum the next working day following the date of the approval of the permit. Under the proposed amendment, the final ordinance indicates that a site that is the subject of a Coastal Development Permit (whether or not the CDP is issued in conjunction with another discretionary permit) application must be posted no later than 15 days following the filing of a complete

application but in no case less than: (a) 10 days prior to the scheduled date of a BAR review or (b) 10 days following the decision on the permit. Note, the County has confirmed an error in the preparation of the final Ordinance regarding item “b” which should state “10 days prior to the decision on the permit” as provided to the Planning Commission in other staff findings. By adding an additional requirement that sites be posted 15 days after an application is filed, this should translate to an increased period of time that the site is posted, though the *minimum* overall standard does not differ from the existing requirements. However, the amendment proposes to reduce the existing requirement to post three notices on the subject site to one posted notice on the site.

With regard to mailed notices, neighbors and residents within 100 feet are currently mailed notice a minimum of 10 calendar days prior to a public hearing or seven calendar days prior to the decision on a Director-approved permit that does not require a public hearing. The amendment proposes to continue to provide the mailed notice 10 calendar days prior to a public hearing; however, CDP applications that do not receive a hearing would provide mailed notice no later than 15 days following the filing of a complete application but in no case less than: (a) 10 days prior to the scheduled date of a BAR review or (b) 10 days following the decision on the permit. Note, the County has confirmed an error in the preparation of the final Ordinance regarding item “b” which should state “seven days prior to the decision on the permit” as provided to the Planning Commission in other staff findings. By adding an additional requirement that notice be provided 15 days after an application is filed, this should translate to an increased period of time for owners and residents to participate, though the *minimum* overall standard does not differ from the existing requirements.

As proposed, the amendment would transfer the responsibility for mailing notices for projects that do not require a public hearing or notice of decision maker action from the County to the applicant. In these cases, the applicant would be responsible for: mailing notice to owners and residents within the defined radius of the property boundaries; mailing notice to all parties that received notice of a previous, associated discretionary action, as applicable; and mailing notice to the Coastal Commission, in addition to the existing requirement to post the site. The County would continue to post a notice in a County building and mail requests to interested parties.

The amendment would also eliminate the requirement for the local government to provide an additional notice if a public hearing on a project is continued and for which the date of the subsequent hearing was not announced or otherwise noticed.

Further, the proposed amendment reorganizes the contents of notices into three categories: (1) required contents for all notices; (2) required contents for projects that require a public hearing or discretionary action; and (3) required contents for projects that do not require a public hearing or discretionary action. Under this reorganization, there are additional information requirements for projects that do not require a public hearing or discretionary action by the Director.

The following table provides more specific information regarding the existing certified language of noticing procedures and the proposed amendment.

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Table 1. Proposed Changes to Noticing Procedures.

Certified LCP Section No.	Description	Existing Certified Requirements	Proposed Modifications / Amended Requirements
Sec. 35-181.2 Notice of Public Hearing & Decision-Maker Action			
Sec. 35-181.2.1	Minimum requirements for all projects that require a noticed public hearing or notice of decision-maker action, notice shall be given pursuant to 65090-65096 of the Government Code, consistent with this section.	<p>The minimum requirements for such notice shall be as follows:</p> <p>(1) Published notice in a newspaper of general circulation in the area affected by the project at least ten calendar days prior to the hearing or action.</p> <p>(2) Mailed notice to person who has filed a written request and has supplied a self-addressed stamped envelope.</p> <p>(3) Mailed notice to the applicant.</p> <p>(4) Mailed notice to owners of the affected property and the owners of the property within 300 feet of the exterior boundaries of the affected property at least ten calendar days prior to the hearing.</p> <p>(5) Mailed notice to residents within 100 feet of the affected property at least ten calendar days prior to the hearing or action.</p> <p>(6) Mailed notice alternative – If the number of owners and residents to whom notice would be mailed is greater than 1,000, notice may be provided by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation at least ten calendar days prior to the hearing.</p> <p>(7) Mailed notice to the Coastal Commission.</p>	<p>Describes noticing procedures applicable to projects that require a public hearing.</p> <p>Provides examples of what a decision-maker action is, including amendments to conditional use permits, and development plans under the jurisdiction of the Planning Director.</p> <p>Other clarifications and re-organization but same list of minimum requirements.</p>
Sec. 35-181.2.2	Contents of notice for all projects that require a noticed public hearing or notice of decision-maker action.	<p>The notice shall contain the following information:</p> <p>(1) The date of filing of the application and the name of the applicant;</p> <p>(2) The Case Number assigned to the application;</p> <p>(3) Project description, location and statement that the proposed development is within the Coastal Zone;</p> <p>(4) The date, time, and location that the application will be heard by the governing body or decision-maker;</p> <p>(5) General procedure of the local government concerning the conduct of hearing and local actions and submission of public comments either in writing or orally prior to the local decision;</p> <p>(6) Coastal Commission appeal procedures and/or any appeal fees.</p>	<p>Reorganizes and relocates the required contents of public notices to Section 35-181.4.</p> <p>Sec. 35-181.4, as revised, splits the contents of notices into three categories: (1) required contents for all notices; (2) required contents for projects that require a public hearing or discretionary action; and (3) required contents for projects that do not require a public hearing or discretionary action.</p> <p>The first 3 requirements (as shown in column to left) are incorporated into <u>all notices</u>. Additionally, the case planner and contact information is required on all notices.</p> <p>Requirements 4 through 6 (listed at left) have undergone minor modifications and reorganized to only apply to <u>projects that require a public hearing or discretionary action</u>. Additionally, the notice for such projects must contain the general notice requirements defined subsection 1, and if the project does not require a public hearing, then only the date of pending action or the decision of the decision-maker is required.</p> <p>Sec. 35-181.4, as revised, also incorporates and modifies language from Sec. 35-181.3.3 which defines the required contents of notices for Coastal Development Permits and Land Use Permits. The revised language defines the contents of notices for <u>projects that do not require a public hearing or discretionary decision-maker action</u>. The notice for such projects must contain the general notice requirements defined subsection 1. Additionally, items 4 through 7 as listed under Sec. 35-181.3.1 in this table have been modified and incorporated into the noticing requirements for projects that do not require a public hearing or discretionary action. The proposed language adds references to Board of Architectural</p>

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Certified LCP Section No.	Description	Existing Certified Requirements	Proposed Modifications / Amended Requirements
			<p>decisions (i.e., described under category of projects that does not require a discretionary action)</p> <p>The requirement for the local government to provide an additional notice if a public hearing on a project is continued and for which the date of the subsequent hearing was not announced or noticed, was eliminated.</p>
Sec. 35-181.2.3	Noticing requirements for continuances for all projects that require a noticed public hearing or notice of decision-maker action.	If a public hearing on a project is continued by the local government to a time which is neither (a) previously stated in the notice nor (b) announced at a hearing as being continued to a designated time, notice of further hearings shall be provided in the same manner and within the same time limits as set forth above.	Deleted.
Sec. 35-181.3 Coastal Development Permit and Land Use Permit Noticing			
Sec. 35-181.3.1	Minimum requirements for Coastal Development Permits that are not appealable to the Coastal Commission and that do not follow a previous discretionary action	<p>Notice of pending decision on a CDP that is not appealable to the Coastal Commission as defined in Section 35-58 and that does not follow a previous discretionary action shall be given seven days prior to the decision on the permit as follows:</p> <p>(1) Posted notice by the County in County public place (e.g. Planning & Development Department)</p> <p>(2) Posted notice by applicant in 3 visible locations on and around property;</p> <p>(3) At a minimum notice to be posted seven days prior to the date of the decision of the CDP;</p> <p>(4) Notice shall be posted for a minimum of 17 calendar days and shall remain posted for a minimum of 10 calendar days following the Planning & Development Dept's decision on the permit.</p> <p>(5) Notice of Intent to act on a CDP shall be mailed to: (a) persons who have filed a written request & supplied a self-addressed stamped envelope; (b) property owners and residents within 100 feet of the exterior boundaries of the subject property; and (c) Coastal Commission.</p>	<p>Splits noticing responsibilities into two categories: (1) noticing to be carried out by the Planning & Development Department & (2) noticing to be carried out by the applicant. The certified language only identifies posting of the site as the applicant's responsibility. Under proposed Sec. 35-181.3, the applicant would be responsible for: mailing notices to surrounding property owners and residents as specified; mailing the notice of pending decision to the Coastal Commission; and posting the site. The Planning & Development Department would be responsible for posting a notice in a County building and mailing notices to interested parties that have provided self-addressed stamped envelopes.</p> <p>Other changes include additional noticing to property owners within a 300-ft radius of the subject property for certain types of development; reduction in posting of the site from three locations on the property to one location on the property; and modification of the timeline to mail or post notices such that the notice shall mailed or posted no later than 15 days following the filing of a complete application but in no case less than 10 days prior to scheduled review by the BAR or 10 days following the decision on the permit (which translates to a minimum notice of 10 days, rather than 7 days).</p>
Sec. 35-181.3.2	Minimum requirements for Coastal Development Permits (CDP) and Land Use Permits (LUP) that follow a previous discretionary action	<p>Notice of pending decision on a CDP or LUP that follows a previous discretionary action shall be given on the CDP or LUP as follows:</p> <p>(1) Posted notice by the County in County public place (e.g. Planning & Development Department)</p> <p>(2) Posted notice by applicant in 3 visible locations on and around property;</p> <p>(3) Notice shall be posted by a date identified by P&D. If no such date is identified, the date of posting shall be the next working day following the date of the approval of the permit;</p> <p>(4) Notice shall be posted for a minimum of ten calendar days from date prescribed above.</p> <p>(5) Notice of Intent to act on a CDP shall be mailed to: (a) persons who have filed a written request & supplied a self-addressed stamped envelope; (b) all parties that received notice of the previous discretionary action, including property owners and residents within 100 feet of the exterior boundaries of the subject property; and (c) Coastal Commission.</p>	<p>Splits noticing responsibilities into two categories: (1) noticing to be carried out by the Planning & Development Department & (2) noticing to be carried out by the applicant. The certified language only identifies posting of the site as the applicant's responsibility. Under proposed Sec. 35-181.3, the applicant would be responsible for: mailing notices to surrounding property owners and residents as specified; mailing the notice of pending decision to the Coastal Commission; and posting the site. The Planning & Development Department would be responsible for posting a notice in a County building and mailing notices to interested parties that have provided self-addressed stamped envelopes.</p> <p>Other changes include a reduction in posting of the site from three locations on the property to one location on the property; and modification of the timeline to mail or post notices such that the notice shall mailed or posted no later than 15 days following the filing of a complete application but in no case less than 10 days prior to scheduled review by the BAR or 10 days following the decision on the permit.</p>
Sec. 35-181.3.3	Contents of notice for all projects that require a CDP or LUP	The notice shall contain the following information: (1) The date of filing of the application and the name of the applicant;	Reorganizes and relocates the required contents of public notices to Section 35-181.4.

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Certified LCP Section No.	Description	Existing Certified Requirements	Proposed Modifications / Amended Requirements
		<p>(2) The Case Number assigned to the application;</p> <p>(3) Project description, location and statement that the proposed development is within the Coastal Zone;</p> <p>(4) The date of the decision on the permit and date of expiration of the appeal period for the CDP;</p> <p>(5) The procedure for appeal of the CDP approval;</p> <p>(6) The procedure for submitting written or oral comments prior to the decision on CDPs, excluding permits that follow a previous discretionary approval;</p> <p>(7) Statement that public comment period commences upon the date that such notice is given and allows for submission of public comments prior to the decision on the CDP, excluding permits that follow a previous discretionary approval.</p>	<p>Sec. 35-181.4, as revised, splits the contents of notices into three categories: (1) required contents for all notices; (2) required contents for projects that require a public hearing or discretionary action; and (3) required contents for projects that do not require a public hearing or discretionary action.</p> <p>The first 3 requirements (as shown in column to left) are incorporated into <u>all notices</u>. Additionally, the case planner and contact information is required on all notices.</p> <p>Requirements 4 through 7 (listed at left) have been modified and incorporated into the noticing requirements for projects that do not require a public hearing or discretionary action. The proposed language adds references to Board of Architectural Review decisions (i.e., described under category of projects that does not require a discretionary action). Additionally, the notice for such projects must contain the general notice requirements defined subsection 1.</p>
Sec. 35-181.4	Notice of Final Action for CDPs Appealable To the Coastal Commission	The County is required to submit a Notice of Final Action (NOFA) to the Coastal Commission for development that (1) is within the Commissions geographic appeals area, (2) constitutes a major public works facility; or (3) is not a principal permitted use as defined in Sec. 35-58. Notice shall be given to any interested person who has requested such notice and submitted a self-addressed stamped envelope. Said notice shall be given within 5 calendar days of the final action & shall include conditions of approval, findings, and the procedure for appeal of the County's action to the Coastal Commission.	Renumbered to Sec. 35-181.5. No substantive changes proposed.
Sec. 35-181.5	Failure to Receive Notice	The failure of any person or entity to receive a notice pursuant to this section shall not invalidate the actions of the Planning and Development Department or the decision-maker.	Renumbered to Sec. 35-181.6. No substantive changes proposed.

2. Appeals

The County is proposing to clarify the grounds for appeal and acceptance of appeals by reorganizing Section 35-182 of the LCP to provide a clear framework for identifying appellants with standing to submit an appeal, the timing and content of the appeal, fees (if any), special processing of BAR appeals when a Coastal Development Permit must also be issued, public hearing requirements, the scope of the appeal review, and the types of decisions that may be appealed and the appeals body that will take action on the appeal.

Currently, the ordinance specifies two valid reasons for an appeal, that the project is not consistent with the certified LCP or that there was an error or abuse in discretion by the decision-maker. The amended language would add the following potential claims for appeal: (1) that there was a lack of a fair and impartial hearing, or (2) that the decision is not supported by the evidence presented for consideration at the time of that determination, or (3) that there is significant new evidence relevant to the decision that could not have been presented at the time of the decision.

Two other types of permits were specifically targeted with regard to the valid grounds of appeal: (1) Coastal Development Permits (CDP) in cases where another discretionary permit (e.g., Conditional Use Permit, Development Plan) was issued and (2) Board of Architectural Review approvals.

The existing grounds of appeal for Coastal Development Permits (CDP) for projects that were issued another discretionary permit (e.g., Conditional Use Permit, Development Plan) are unclear. In the certified LCP, 35-182.2.1.d indicates that the grounds for appeal are limited to allegations that the decision of the Planning and Development Department on a Coastal Development Permit, or a decision of the Director or the BAR, is inconsistent with the Zoning Ordinance or that there was an error an abuse of discretion. However, the same section indicates that appeals regarding CDPs associated with a previously approved discretionary permit must identify how the CDP is inconsistent with the previous discretionary approval, or that the prior-to-issuance conditions of the previous discretionary approval have not been met, or that the approval of the CDP did not provide proper noticing. The reference is unclear as to whether these specific conclusions would be in addition to, or in lieu of the other two grounds which apply in all circumstances.

As proposed, this amendment would specifically limit the grounds of appeal for these types of Coastal Development Permits to situations where the project allowed by the Coastal Development Permit is in substantial conformance with the project that received discretionary approval, where the conditions of approval have not been met, or if noticing requirements were not met. As a result, Coastal Development Permits in these situations could not be appealed on the basis of whether the development is inconsistent with the certified LCP.

In addition, the proposed amendment modifies the timing of Board of Architectural Review (BAR) appeals. Presently only final BAR approvals are appealable. The proposed amendment would allow for appeals of preliminary BAR approvals. The intent is to allow opposition to the project/design to be identified earlier in the process, before detailed working drawings are prepared. The amendment would limit the scope of appeal of final BAR approvals to projects that are denied or where the plans are not in substantial conformance with the previously approved preliminary plans. Additionally, the timing of the BAR preliminary approval and CDP approval be coordinated so that if an appeal is filed on either or both one appeal would be heard by the Planning Commission together.

The proposed amendment would revise the certified language of the LCP to allow the Planning Director to reject an appeal under certain circumstances. The certified LCP requires that an appellant state the reason for the appeal, however, there is no mechanism to reject an appeal if a reason is not given or if it is not valid. The proposed amended language would require the Director to reject an appeal unless it is complete and complies with the specific contents requirements in Section 35-182.2.C to include: (1) the identity of the appellant and the appellants interest in the decision; (2) the identity of the decision being appealed; and either (3) clear statement of why the decision was inconsistent with the certified LCP or other applicable law; or (4) where applicable, a statement specifying an abuse in discretion, lack of impartial hearing, lack

of evidence to support the decision, or the existence of significant new information that could not have been presented at the time the decision was made. However, Section 35-182.2.C provides additional content requirements for: (1) Coastal Development Permits or Land Use Permits for development that have already received a separate discretionary approval and (2) appealing a final decision by the Board of Architectural Review.

Further, the amendment serves to clarify the governing appeal body for decisions made by the Director, Zoning Administrator, or Planning Commission. In certain cases, this results in a shift of the governing body that would hear an appeal. The proposed amendment shifts the responsibility for hearing an appeal from the Board of Supervisors to the Planning Commission for Director decisions relating to the number and width of driveways, conditional use permits for temporary uses listed in Section 35-137.3.3, residential second units, Coastal Development Permits, Conditional Use Permits approved by the Zoning Administrator, Variances approved by the Zoning Administrator, Preliminary Development Plans approved by the Zoning Administrator, and Modifications approved by the Zoning Administrator. Note, however, that the final action on appeals heard by the Planning Commission are then appealable to the Board of Supervisors.

C. CONSISTENCY ANALYSIS

The standard of review for the proposed amendments to the Coastal Zoning Ordinance is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County LCP. Additionally, in this case, the proposed amendment directly modifies implementation of the noticing and appeal procedures for coastal development permits and therefore must be reviewed for consistency with the noticing and appeal procedural requirements established under the Coastal Act and Commission's Regulations.

1. Coastal Act Policies

Coastal Act **Section 30006** Legislative findings and declarations; public participation

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

Coastal Act **Section 30339** provides:

The commission shall: (a) Ensure full and adequate participation by all interested groups and the public at large in the commission's work program. (b) Ensure that timely and complete notice of commission meetings and public hearings is disseminated to all interested groups and the public at large. (c) Advise all interested groups and the public at large as to effective ways of participating in commission proceedings. (d) Recommend to any local government preparing or implementing a local coastal program and to any state agency that is carrying out duties or responsibilities pursuant to this division,

additional measures to assure open consideration and more effective public participation in its programs or activities.

Coastal Act Section 30603 Appeal of actions taken after certification of local program; types of developments; grounds; finality of actions; notification to Commission

(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to 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 this division.

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) 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 this division.

(c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

Coastal Act Section 30624.9 Minor development; waivers of permit application hearings; notice

(a) For purposes of this section, "minor development" means a development which a local government determines satisfies all of the following requirements:

(1) Is consistent with the certified local coastal program, as defined in Section 30108.6.

(2) Requires no discretionary approvals other than a coastal development permit.

(3) Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

(b) After certification of its local coastal program, a local government may waive the requirement for a public hearing on a coastal development permit application for a minor development only if both of the following occur:

(1) 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.

(2) No request for public hearing is received by the local government within 15 working days from the date of sending the notice pursuant to paragraph (1).

(c) The notice provided pursuant to subdivision (b) 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 to the commission any action taken by a local government on a coastal development permit application.

Coastal Act Section 30625 Persons who may appeal; powers of reviewing body; effect of decisions

(a) Except as otherwise specifically provided in subdivision (a) of Section 30602, any appealable action on a coastal development permit or claim of exemption for any development by a local government or port governing body may be appealed to the commission by an applicant, any aggrieved person, or any two members of the commission. The commission may approve, modify, or deny such proposed development, and if no action is taken within the time limit specified in Sections 30621 and 30622, the decision of the local government or port governing body, as the case may be, shall become final, unless the time limit in Section 30621 or 30622 is waived by the applicant.

(b) The commission shall hear an appeal unless it determines the following:

(1) With respect to appeals pursuant to subdivision (a) of Section 30602, that no substantial issue exists as to conformity with Chapter 3 (commencing with Section 30200).

(2) With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

(3) With respect to appeals to the commission after certification of a port master plan, that no substantial issue exists as to conformity with the certified port master plan.

(c) Decisions of the commission, where applicable, shall guide local governments or port governing bodies in their future actions under this division.

Coastal Act Section 30801 Petition for writ of mandate; aggrieved person

Any aggrieved person shall have a right to judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure, within 60 days after the decision or action has become final.

For purposes of this section and subdivision (c) of Section 30513 and Section 30625, an "aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the commission, local government, or port governing body in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the commission, local government, or port governing body of the nature of his concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit and, in the case of an approval of a local coastal program, the local government involved.

2. Commission's Regulations

§ 13012. Major Public Works and Energy Facilities.

(a) "Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.

(b) Notwithstanding the criteria in (a), "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

§ 13545. Effect of Final Certification of LCP.

Certification of a local coastal program pursuant to Section 13544 results in the delegation to the local government of a coastal development permit authority over those developments specified in Public Resources Code Section 30519 for the area of the coastal zone governed by the certified local coastal program. No development inconsistent with the certification order may take place unless the order is amended. Appealable developments under Public Resources Code Section 30603, proposed for the area governed by the certified local coastal program shall be subject to the requirements of Article 17, of these regulations.

§ 13560. Scope of Article (Article 17, Local Coastal Program Implementation Regulations).

The provisions of this Article shall constitute minimum standards of notice and hearing requirements for local governments and for the Commission in reviewing development projects after certification of a local coastal program.

§ 13563. Existing Local Procedures.

Existing local government notice and hearing procedures which are in substantial compliance with the provisions of these regulations may be reviewed and certified by the Commission as part of the local coastal program.

§ 13565. Notice of Appealable Developments.

Within ten (10) calendar days of accepting an application for an appealable coastal development permit (or local government equivalent) or at least seven (7) calendar days prior to the first public hearing on the development proposal, the local government shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed and to the Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;
- (2) the date of filing of the application and the name of the applicant;
- (3) the number assigned to the application;
- (4) a description of the development and its proposed location;
- (5) the date, time and place at which the application will be heard by the local governing body or hearing officer;

- (6) a brief description of the general procedure of local government concerning the conduct of hearing and local actions;
- (7) the system for local and Coastal Commission appeals, including any local fees required.

§ 13566. Public Hearing on Appealable Developments.

At least one public hearing shall be held on each application for an appealable development, thereby affording any persons the opportunity to appear at the hearing and inform the local government of the nature of their concerns regarding the project. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section 13565. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

§ 13567. Notice of Local Government Action When Hearing Continued.

If a decision on a development permit is continued by the local government to a time which is neither (a) previously stated in the notice provided pursuant to Section 13565, nor (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits as established in Section 13565.

§ 13568. Notice of Non-Appealable Developments.

(a) Notice of developments within the coastal zone that require a public hearing under local ordinance, but which are not appealable pursuant to **Public Resources Code Section 30603** (and which are not categorically excluded) shall be provided in accordance with existing local government notice requirements which shall provide at a minimum:

Notice of developments shall be given at least ten (10) calendar days before a hearing in the following manner:

- (1) if the matter is heard by the Planning Commission (city or county) notice shall be published in a newspaper of general circulation or (if there is none) posted in at least three public places in the local jurisdiction;
- (2) notice by first class mail to any person who has filed a written request therefore,
- (3) notice by first class mail to property owners within 300 feet.
- (4) notice by first class mail to residents within 100 feet of the proposed project.
- (5) notice by first class mail to the Commission.
- (6) the notice shall contain a statement that the proposed development is within the coastal zone.

The local government may, instead, elect to provide notice in accordance with Section 13565.

(b) Notice of developments within the coastal zone which are not appealable pursuant to **Public Resources Code Section 30603** and which do not require a public hearing under local ordinance (and which are not categorically excluded) shall be provided as follows:

Within ten (10) calendar days of accepting an application for a non-appealable coastal development permit (or local government equivalent) or at least seven (7) calendar days prior to the local decision on the application, the local government shall provide notice, by first class mail, of pending development approval. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all

property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed, and to the Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;
- (2) the date of filing of the application and the name of the applicant;
- (3) the number assigned to the application;
- (4) a description of development and its proposed location;
- (5) the date the application will be acted upon by the local governing body or decision-maker;
- (6) the general procedure of the local government concerning the submission of public comments either in writing or orally prior to the local decision;
- (7) a statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the local decision.

§ 13571. Final Local Government Action-Notice.

(a) Notice After Final Local Decision. (This section shall not apply to categorically excluded developments.) Within seven (7) calendar days of a local government completing its review and meeting the requirements of Section 13570, the local government shall notify by first class mail the Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the local government (or, where required, who paid a reasonable fee to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.

...

§ 13572. Local Government Action-Effective Date.

A local government's final decision on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Commission has expired unless either of the following occur:

- (a) an appeal is filed in accordance with Section 13111;
- (b) the notice of final local government action does not meet the requirements of Section 13571;

When either of the circumstances in Section 13572(a) or (b) occur, the Commission shall, within five (5) calendar days of receiving notice of that circumstance, notify the local government and the applicant that the effective date of the local government action has been suspended.

§ 13573. Exhaustion of Local Appeals.

(a) An appellant shall be deemed to have exhausted local appeals for purposes of Section 13111 and shall be qualified as an aggrieved person where the appellant has pursued his or her appeal to the local appellate body (bodies) as required by the local government appeal procedures; except that exhaustion of all local appeals shall not be required if any of the following occur:

- (1) The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the Local Coastal Program.
- (2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.

(3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.

(4) The local government jurisdiction charges an appeal fee for the filing or processing of appeals.

(b) Where a project is appealed by any two (2) members of the Commission, there shall be no requirement of exhaustion of local appeals. Provided, however, that a local government may provide, by ordinance, that notice of commissioner appeals may be transmitted to the local appellate body (which considers appeals from the local body that rendered the final decision), and the appeal to the Commission may be suspended pending a decision on the merits by that local appellate body. If the decision of the local appellate body modifies or reverses the previous decision, the commissioners shall be required to file a new appeal from that decision.

3. General

A core principle of the Coastal Act is to maximize the public's ability to participate in planning and regulatory decisions. To facilitate such participation, the Coastal Act and the California Code of Regulations establish specific procedures for processing coastal development permits (CDPs) by local governments following LCP certification. This includes specific procedures regarding the provision of public notices and hearings, and opportunities to appeal certain local decisions on CDPs to the Coastal Commission. At the same time, these procedures should be structured in a way that maximizes efficiency. Thus, processing requirements may vary depending on the type, extent, and significance of the development being proposed.

The subject amendment represents the County of Santa Barbara's efforts to update the certified noticing and appeal procedures to address concerns by the public, eliminate some inconsistencies and errors in the certified text regarding noticing and appeals, and to clarify and reorganize the requirements resulting in more precise interpretation and implementation.

The proposed amendment's consistency with the Coastal Act, Commission Regulations, and the certified LUP is detailed below.

4. Noticing

The minimum requirements for noticing local CDP applications and approvals are established by Sections 13560 – 13572 of the California Code of Regulations. Section 35-181, Noticing, of the County's certified Zoning Ordinance is the primary subject of the amended noticing procedures and for which contains various provisions regarding the processing of mailed and posted notices or other public hearing notices for coastal development and other County permits.

The proposed amendment includes many minor corrections and clarifications to provide consistent language and consistent references to Section 35-181. In many cases, the specific noticing provisions that are listed in various sections of the LCP (e.g., residential second units, telecommunications facilities) are relocated to Section 35-181, Noticing, in order to ensure that Section 35-181 provides comprehensive requirements for noticing provisions, including any special circumstances that warrant addition

noticing. These are helpful and appropriate modifications to ensure consistent and adequate implementation of the noticing procedures.

However, in working with County staff, there are several modifications to the proposed noticing procedures that are necessary to bring the project into conformance with the Commission's regulations.

The proposed amendment includes changes to Section 35-137 regarding large family day care homes and non-residential child care centers. However, the proposed changes would modify portions of Sections 35-137 that were apparently previously adopted by the County but which were never certified by the Commission. The County of Santa Barbara previously adopted an ordinance regarding community care facilities, including definitions, noticing procedures, standards, and processing of different types of facilities modifying various sections of the LCP. In reviewing the records, however, it was discovered that these modifications had never been previously submitted to the Commission for certification. In addition, although new changes to Section 35-137 are proposed as part of this amendment, the language previously adopted by the County but never certified by the Commission is not proposed or included as part of this pending amendment. Therefore, in an effort to fulfill the purpose of updating the noticing procedures, Suggested Modification 2 and Suggested Modification 3 are necessary because the amendment submittal does not accurately represent the certified text of Section 35-137. Suggested Modifications 2 and 3 revise Section 35-137 to reference Section 35-181 (Noticing) based on the existing, certified text. An erroneous reference to the non-certified text is also eliminated in Section 35-181.3.2 pursuant to Suggested Modification 7.

Section 35-181.2 of the proposed amendment describes the noticing procedures for permits, including coastal development permits, or other discretionary actions that require a public hearing. Applicable procedures include newspaper and mailed noticing a minimum of 10 days prior to the hearing. Mailed notice is required to be provided to the subject owner(s) and applicant(s), owners within 300-feet of the subject property, residents within 100 feet of the subject property, the Coastal Commission, and persons filing a written request. This section does not reflect the existing, certified text in Section 35-144.F regarding the expanded noticing requirements to residents in cases of commercial telecommunications facilities. Therefore, to ensure internal consistency within the LCP, Suggested Modification 5 adds the requirement that mailed notice be provided to all residents located within a 300-foot radius of the exterior boundaries of the subject lot of an application for a commercial telecommunication facility, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3 (Commercial Telecommunication Facilities).

Section 35-181.3.1 describes the noticing procedures for coastal development permits that do not require a public hearing. Applicable noticing for these permits include posted notice in a public place and at the site, mailed noticing a minimum of 10 days prior to the scheduled date of a BAR review or (b) 10 days following the decision on the permit. Note, the County has confirmed an error in the preparation of the final Ordinance regarding item "b" which should state "seven days prior to the decision on the permit" as provided to the Planning Commission in other staff findings. The seven days matches

the current procedure and the requirements of Section 13568(b) of the Commission's regulations. Therefore Suggested Modification 7 updates these references to clarify that notices must be sent a minimum of seven days prior to the hearing.

Section 35-181.3.1 requires mailed notice to be provided to owners within 300-feet of the subject property for specific types of projects, residents within 100 feet of the subject property, residents within 300 feet of the subject property for commercial telecommunications facilities, the Coastal Commission, and persons filing a written request. This is a reduction in the mailed notice currently required. Additionally, Section 13568(b) requires that the mailed notice include all property owners within 100 feet regardless of the type of development proposed. Further, applicants and owners would be interested parties and should specifically be on the list to receive the pending action notice. Therefore, in order to ensure maximum public participation in the permit process, Suggested Modification 7 expands the list of entities that must be provided notices in order to comply with Section 13568(b) of the Commission's regulations.

As proposed by this amendment, Section 35-181.3.1 would be revised to transfer responsibility to the applicant for mailing a majority of the notices. As currently certified, Section 13568(b) specifically states that "the local government shall provide notice, by first class mail, of pending development approval." Participation in the mailing by various applicants would not provide predictable and consistent implementation of the noticing procedures. As a result, this could result in inadequate public noticing and participation. Therefore, Suggested Modification 7 also restructures the proposed noticing responsibilities so that the County remains responsible for mailing notices and posting the County notice in a public area and the applicant is responsible for posting the site. Suggested Modification 7 would bring this aspect of the noticing procedures into conformance with Section 13568(b) of the Commission's regulations and would be consistent with the existing, certified implementation strategy.

Section 35-181.3.2 describes the noticing procedures for coastal development permits and land use permits that are issued for a project that has already received a separate discretionary permit and public hearing. Similar to Section 35-181.3.1, the noticing procedure for these types of permits require mailed notice to be provided to residents within 100 feet of the subject property and all parties that received notice of the previous discretionary action. Suggested Modification 8 clarifies as required by Section 13568(b) that notices must be sent to all property owners within 100 feet of the subject property, in addition to the residents. Additionally, the County has noted a problem with the final ordinance with regarding to the timing of mailing a notice. The proposed language proposes to send notices a minimum of 10 days *following* an action by the Director. This should say *prior* to the action of the Director. This change is reflected in Suggested Modification 8.

Section 35-181.3.2 also assigns responsibility to the applicant for mailing a majority of the notices. Section 13568(b) specifically states that "the local government shall provide notice, by first class mail, of pending development approval." Participation in the mailing by various applicants would not provide predictable and consistent implementation of the noticing procedures. As a result, this could result in inadequate public noticing and participation. Therefore Suggested Modification 8 restructures the noticing

responsibilities so that the County is responsible for mailing notices and posting the County notice in a public area and the applicant is responsible for posting the site. Suggested Modification 8 would bring this aspect of the noticing procedures into conformance with Section 13568(b) of the Commission's regulations and would be consistent with the existing, certified implementation strategy.

Section 13567 of the Commission's regulations provides specific noticing requirements in regard to future noticing at continued hearings. Suggested Modification 6 is adds language to ensure that the date of the hearing is made known to all interested parties, such that: if a public hearing on a project is continued by the local government to a time which is neither (a) previously stated in the notice nor (b) announced at a hearing as being continued to a time certain, notice of the further hearings shall be provided in the same manner and within the same time limits as set forth above.

5. Appeals

Under Section 30603 of the Coastal Act, a local government's approval of a coastal development permit may be appealed to the Commission if it authorizes development that is located within the appealable areas, such as those located between the sea and the first public road paralleling the sea; within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater; on state tidelands; or along or within 100 feet of any wetland, estuary, or stream. Further, any development approved by a County that is not designated as the principal permitted use within a zoning district may also be appealed to the Commission, irrespective of its geographic location within the coastal zone. Finally, local approval or denial of development that constitutes major public works or major energy facilities may also be appealed to the Commission.

The grounds for appeal of development, pursuant to Section 30603, approved by the local government and subject to appeal to the Commission shall be limited to 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 (Section 30603[b][1] of the Coastal Act).

Section 35-181.5, Appeals to the Coastal Commission, of the proposed amendment is intended to implement Coastal Act Section 30603 with regard to designating the types of development that are appealable to the Coastal Commission as well as the potential grounds for appeal. Additionally, Section 35-58 of the LCP defines "appealable development" to the Coastal Commission. However, neither of these sections are adequate to describe the types of appealable development with regard to permitted uses. Section 30603 specifically states that an action by a coastal county that is not designated as the principal permitted use under the zoning ordinance is an appealable development whereas the existing text limits appealable development to only those projects where the County issues a Conditional Use Permit. There may be other types of development such as lot line adjustments or tract maps that would not be a principal permitted use but that would not require a Conditional Use Permit from the County. Therefore, this language is updated in Section 35-181.5 and 35-58, pursuant to Suggested Modifications 22 and 23, to reflect the correct definition of appealable

development under Section 30603 of the Coastal Act. Other clarifications to the certified text were also necessary to ensure that the types of development that can be appealed to the Commission were not limited or restricted. For instance Suggested Modification 22 deletes language that refers to development as appealable only if it is indicated on the official County appeals zone maps. These are not appropriate references because the maps are a tool, and may not fully identify all of the circumstances of appealability. Suggested Modification 22 also adds clarifying reference to Section 13012 of the Commission's language regarding the definition of "major public works" and "major energy facilities."

Additionally, other modifications to Section 35-181.5 is necessary to clarify that there are a few exceptions to when local appeals must be exhausted, as described in Section 13573 of the Commission's regulations. For instance, an appealable development may be appealed by two Commissioners and in such cases, the Commissioners are not required to exhaust local appeals. Additionally, there are other circumstances for which an appellant would not have to exhaust local appeals: (1) when an appellant is required to have its appeal heard by an appellate body that is not certified in the LCP; (2) if appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision; (3) if an appellant was denied the right of local appeal because the local notice and hearing procedures did not comply with the requirements of the LCP; or (4) if an appellant charges an appeal fee. Therefore, Suggested Modification 22 adds this specific clarifying language.

Further, Coastal Act Sections 30603(b)(1) and (2) specify the grounds for appeal 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 a major public works project or major energy facility may be appealed based on 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. Suggested Modification 22 includes necessary changes to ensure that these exact grounds are specified in Section 35-181, "Appeals to the Coastal Commission." For the above reasons, the Commission finds Suggested Modification 22 necessary for adequate implementation of the appeals procedures in Coastal Act Section 30603 and Section 13573 and 13012 of the Commission's regulations.

Further, it is necessary to clarify the grounds for appeal regarding residential second units. Section 35-142.8 of the proposed amendment is intended to identify specific noticing requirements, including the grounds of appeal of a residential second unit. However, this section contains an error regarding the grounds for appeal because the grounds would be incorrectly limited to consistency with the Zoning Ordinance or Coastal Land Use Plan and does not specify that residential second units are appealable because they are not principal permitted uses. Any new development within the County's Coastal Zone that is not specifically designated in the County's certified Implementation Plan as the principle permitted use is appealable to the Coastal Commission. To ensure that the notice contains the accurate information, Suggested Modification 1 clarifies that the notice must state the potential grounds of appeal and further clarify that those grounds are limited to 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. This same change is reflected in Suggested Modification 11. However, Suggested Modification 11 also provides clarifying language that all residential second units are appealable to the Coastal Commission because such development would not be a principal permitted use, consistent with Coastal Act Section 30603 or Section 35-182.6.d of the Zoning Ordinance.

The proposed amendment includes a comprehensive overhaul of Section 35-182, Appeal Procedures. The new framework is much more clear with regard to the hierarchy of appellate bodies and decisions that are appealable as well as the procedures to file an appeal such as fees, timing, and content. However, there were some residual errors in the existing certified text that needed updating. For example, the LCP indicates that two Commissioners may appeal the local decision, presumably to obtain standing to provide a Commission appeal, as applicable. However, Commissioners are not required to exhaust all local appeals in order to submit an appeal for a qualifying appealable development at the Coastal Commission. Additionally, staff has been working with County staff to clarify other specific appeal procedures, (e.g., clarify when an appeal can be rejected by the Planning Director). The proposed amendment states that an appeal must be rejected unless the appeal is complete and complies with the content requirement of Section 35-182.2.C. However, as proposed, it is unclear what “complete” is intended to mean. The proposed revisions would include requirements that the appeal be submitted by an appellant or aggrieved party and that the appeal must have been submitted in a timely fashion, within the applicable appeal period. Additionally, the grounds for appeal under Section 35-182.2.C.1 is updated to reflect that a local decision may be appealed based on an allegation that the project is inconsistent with the entire LCP, not just the Zoning Ordinance. Therefore, for the reasons above Suggested Modifications 18, 20, and 21 modify Section 35-182 to correct inadequate references, clarify appeal procedures, and potential rejection of appeals to be consistent with Coastal Act Section 30603.

Finally, with regard to specific appeal procedures, Suggested Modification 19 is necessary to update the proposed procedure of appealing temporary uses to the Zoning Administrator. Section 35-182.3 refers to Sections of the Zoning Ordinance that are not applicable because these sections were previously changed pursuant to Suggested Modifications from a previous LCP Amendment (No. STB-MAJ-3-04, Zoning Changes).

6. Coastal Development Permit Processing / Suggested Modification 24

The minimum requirements for noticing local Coastal Development Permit applications and approvals are established by Sections 13560 – 13572 of the California Code of Administrative Regulations. And Section 30603 of the Coastal Act guides the implementation of appeals after certification of a local coastal program. However, the existing noticing and appeal procedural requirements of the Local Coastal Program (LCP), and the local methods for implementing them, raise question regarding the LCP’s conformance with these statewide standards. Potential inconsistencies include, but are not limited to, the following:

- ❖ The County may send multiple appealable Notices of Final Action (NOFA) to the Coastal Commission for the same project, potentially leading to more than one appeal, at a subsequent date, of the same project.
- ❖ Some Coastal Development Permits (CDPs) that meet the definition of appealable are not receiving a public hearing.

As a result, issues have arisen on several occasions regarding how Santa Barbara County processes Coastal Development Permits, Conditional Use Permits (CUPs), and Development Plans (DPs), and subsequently the receipt of appealable notices of final action by the Commission for CUPs, CDPs, and DPs. The resolution of certain of these processing issues must be addressed in the subject amendment which proposes to further codify the way the County processes these items.

The primary issue is the processing of CUPs and DPs as discretionary items and then following up these CUPs and/or DPs with “ministerial” coastal development permits at a later date. This issue is underlain by three primary sub-issues:

- (a) **Multiple NOFAs.** The Commission office receives multiple appealable notices of final action for the same project, sometimes simultaneously and sometimes many years later (e.g., Biltmore seawall CDP 13 years after issuance of a CUP for the project). In some cases, there have been multiple CDPs for portions of the same project issued over several years, to implement the CUP or DP. This can create confusion over the grounds for appeal, since the same grounds may have been considered previously. It is particularly confusing as to what would happen if substantial issue was raised years after the CUP or DP appeal period ran. For example, if a Conditional Use Permit Notice of Final Action and a follow-up Coastal Development Permit Notice of Final Action are issued without appeal, it would become problematic if the project is appealed a year or two later under a new “follow-up” CDP.
- (b) **Reduced Review of (Follow-up) CDPs.** “Follow-up” or “follow-on” CDPs are being processed by the County to follow-up a Conditional Use Permit or Development Plan by issuing a CDP for the development, or portion of the development. These follow-up CDPs have a reduced standard of review (i.e., there is no staff report, no hearing, and occasionally lack of detailed plans). Follow-up CDPs are considered ministerial CDPs which allow development under the umbrella of the previous Conditional Use Permit or Development Plan approvals. Under all circumstances, these types of CDPs are considered ministerial by the County and approved by the Planning Director and do not receive any public hearing. However, notices are posted on the site and sent to property owners within 100 feet, and a ten day County appeal period is run.
- (c) **Director-Level Approvals Rather Than Public Hearings for Development Appealable to the Commission.** The LCP outlines the types of projects that are appealable to the Coastal Commission. Additionally, the LCP specifies that projects within the geographic appeals jurisdiction or major public works projects must be heard at a public hearing. However, the County considers follow-up

CDPs to be ministerial and does not hold a public hearing. The public hearing for the Conditional Use Permit or Development Plan is considered the public hearing for the CDP, even if the Conditional Use Permit or Development Plan was many years past. Note, Conditional Use Permits and Development Plans require different findings than CDPs, and though the findings are made by the Director, the standard of review is consistency with the Conditional Use Permit or Development Plan, as applicable.

Under the existing, certified Zoning Ordinance, Section 35-169 (Permit Procedures) of the County's LCP establishes procedures and findings for issuance of Coastal Development Permits. Section 35-169.6, Findings Required for Approval of a Coastal Development Permit, outlines the findings required for CDPs that are appealable to the Commission as well as CDPs that are not appealable to the Commission. In both cases, one of the required findings that must be made is that the proposed development conforms to the applicable policies of the certified LCP. As a result, these decisions are inherently discretionary, and cannot be considered ministerial.

Under the existing, certified Zoning Ordinance, Development Plans are required for projects that, though allowed under their respective retail, commercial, industrial, or institutional zone districts, are of a type, scale, or location that require comprehensive review. Development Plans may be approved by the Planning Director, Zoning Administrator, or the Planning Commission. Though not explicitly required by Section 35-184.4 (Appeals to the Coastal Commission), the Development Plan itself is noticed to the Coastal Commission pursuant to a Notice of Final Action (NOFA). A "follow-up" CDP authorizing individual (or entire) development may be issued at a later date, serving roughly in the capacity of clearing the prior to issuance conditions of the previous discretionary action. If a follow-up CDP notice of final action is issued, it may occur at the same time as the Development Plan notice of final action, or at a later date. Though it is not clear in the LCP, the grounds for appeal of a follow-up CDP are presently implemented by the County based on whether the follow-up CDP is consistent with the overarching Development Plan.

Conditional Use Permit are required in circumstances where a use requires a special degree of control because of characteristics peculiar to it, or because of the size, technological process or equipment, or because of the exact location with regard to surroundings, streets and existing improvements or demands upon public facilities. The CUP is necessary to ensure that the use is compatible with other existing or permitted uses surrounding the site. In the certified Zoning Ordinance, zone districts indicated permitted uses, uses permitted with a Major Conditional Use Permit, or uses permitted with a Minor Conditional Use Permit. Additionally, there is a list of additional uses listed in Section 35-172, Conditional Use Permits, which may be allowed with a Major or Minor Condition Use Permit. Though not explicitly required by Section 35-184.4 (Appeals to the Coastal Commission), the Conditional Use Permit itself is noticed to the Coastal Commission pursuant to a Notice of Final Action. A "follow-up" CDP authorizing the development/use is also noticed to the Commission pursuant to a notice of final action, either at the same time as the Conditional Use Permit Notice of Final Action or at a later date. These follow-up CDPs are authorized pursuant to the Planning Director and are not heard at a public hearing. Conditional Use Permits may or may not provide

specific, project-level details. The CDP for the development will, however, provide the project details and include any necessary special conditions to bring the project into conformance with the certified LCP. Although there are internal inconsistencies in the certified LCP regarding the grounds of appeal for a follow-up CDP, the County currently bases its determination of whether the follow-up CDP is appealable based on its consistency with the overarching Conditional Use Permit rather than the LUP. In addition, the County is proposing, as part of this amendment, to further codify this method of processing “follow up” CDPs and their related appeals.

As described above, the current practice of notifying the Commission of appealable projects which are associated with multiple separate discretionary permits for the same project (e.g., Conditional Use Permits or Development Plans) is not the most efficient process and does not effectively maximize public participation since not all appealable CDPs receive a public hearing. The LCP specifically provides that new development may be appealed to the Coastal Commission pursuant to the Coastal Development Permit process. Only actions taken by the County of Santa Barbara on a *Coastal Development Permit* application are specified as appealable to the Commission. However, the Commission is also receiving notices of final action for CUPs or Development Plans. While all CUPs require a public hearing, in some cases, Development Plans are not required to have a public hearing even if the development would be appealable to the Commission. Subsequently, the County’s system of noticing “follow-up” CDPs are authorized pursuant to the Planning Director and are not heard at a public hearing either. This does not meet the hearing requirement for appealable development specified in Section 13566 of the Commission’s regulations. Further, though many “follow up” CDPs have project-level details, there are cases when Development Plans or Conditional Use Permits do not have project-specific details (including information regarding grading amounts or final project plans) at the time these discretionary permits are processed. Therefore, in these circumstances, the public’s ability to informatively participate in the planning process is also limited.

The County has processed CDPs, Conditional Use Permits and Development Plans in this way for many years. However, the issue of receiving multiple NOFAs for a single project has created problems on several occasions with regard to processing multiple appeals for the same project. Additionally, there are cases where the public’s ability to participate in the planning process in regard to an appealable CDP has been reduced due to lack of a public hearing or lack of project specific details presented at a public hearing.

Rather than further clarifying and implementing the same problematic method of processing CDPs used by the County today regarding appeal procedures and noticing as proposed under the subject amendment, the Commission and County staffs have worked together to create a solution to these processing issues as demonstrated in Exhibit 7.

The Commission finds that Suggested Modification 24 is necessary to ensure implementation of the applicable provisions of the LCP and implement the Coastal Act and Commission’s regulations regarding noticing and appeals procedures. Suggested Modification 24 references Exhibit 7. Suggested Modification 24 includes significant processing clarifications and reorganization of Section 35-169, Coastal Development

Permits; Section 35-172, Conditional Use Permits; Section 35-174, Development Plans; and Section 35-178, Land Use Permit.

Suggested Modification 24 reorganizes these sections specifically to:

- ❖ Require Notices of Final Action (NOFAs) only for Coastal Development Permits, rather than receiving notices for Conditional Use Permit or Development Plans.
- ❖ Ensure that all final actions on Coastal Development Permits for appealable development to the Coastal Commission receive a recent public hearing (except for residential second units which do not require hearings pursuant to State Law) as required in Sections 13566 and 13571 of the Commission's regulations.
- ❖ Eliminate all references to "follow-up" Coastal Development Permits.
- ❖ Use Land Use Permits to clear prior-to-issuance conditions, rather than Coastal Development Permits.
- ❖ Process Coastal Development Permits concurrently and in conjunction with any applicable Conditional Use Permits or Development Plans.
- ❖ Modify the expiration date of Coastal Development Permits that are issued in connection with a Conditional Use Permit or Development Plan. In such cases, the Coastal Development Permit may be extended at the discretion of the Director two additional, two-year periods for cause provided that the project can still be found to be consistent with the LCP.

A key concept in the changes to Sections 35-169, Section 35-172, Section 35-174, and Section 35-178 shown in Exhibit 7 is that there are no ministerial, follow-up Coastal Development Permits. Currently, ministerial, follow-up CDPs effectively serve in the capacity of clearing the prior-to-issuance conditions of the County's approval of a CUP or Development Plan. As modified in Exhibit 7, Land Use Permits (which will be a an action separate from CDPs) will assume this role and the County can clear conditions in this way and may issue multiple Land Use Permits as needed. These follow-up Land Use Permits will not modify the Coastal Development Permit approval in any way. The CDP will be its own discretionary item, and may be subject to substantial conformity determinations or require new CDP, as applicable, and allowed under the certified language in Section 35-169.

Implementation of this processing strategy requires further modifications to other sections of the proposed amendment in cases where the proposed amendment modifies language in Sections 35-169, Coastal Development Permits; Section 35-172, Conditional Use Permits; Section 35-174, Development Plans; and Section 35-178, Land Use Permit. In all cases, the changes in Suggested Modification 24 are intended to supersede any other existing or proposed language. Therefore, Suggested Modifications 4, 14, 15, 16, and 17 are necessary to ensure that it is clear that Suggested Modification 24 is intended to take precedence over any other previous changes. To ensure consistency with the new strategy to eliminate follow-up CDPs, the Commission finds that Suggested Modifications 8 and 9 are necessary to assign certain noticing and appeals requirements only to Land Use Permits. This will result in all CDPs

receiving a public hearing and allowing follow-up Land Use Permits to be reviewed and noticed without a public hearing. Similarly, Suggested Modification 18 focuses the language in Section 35-182, Appeals, so that the grounds for appeal of Land Use Permits may be based on the previous approved discretionary permit. However, the grounds for appeal for a coastal development permit would never have any relationship to the separate CUP or DP approval and would instead be based on consistency with the policies of the certified LCP and the public access policies of the Coastal Act.

7. Other Reference Errors and Related Corrections

The proposed amendment contains various provisions related to the processing of coastal development and other County permits. The proposed amendment includes a few other minor corrections and clarifications besides those described above. Suggested Modifications 10, 11, 12, 13, and 20 include changes to ensure that the correct section of the LCP is referenced.

D. CONCLUSION

In conclusion, as proposed, the amended sections will not be fully adequate to carry out the certified land use plan for the above-stated reasons and are denied as submitted. With the suggested modifications, the proposed amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

V. 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.

ATTACHMENT C

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

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

IN THE MATTER OF RECOMMENDING)	
AMENDMENTS TO THE SANTA BARBARA)	
COUNTY COASTAL ZONING ORDINANCE,)	RESOLUTION NO. <u>06-026</u>
ARTICLE II OF CHAPTER 35 OF THE SANTA)	CASE NO.: 05ORD-00000-00016
BARBARA COUNTY CODE TO AMEND)	
DIVISION 7, GENERAL REGULATIONS,)	
DIVISION 11, PERMIT PROCEDURES, AND)	
DIVISION 12, ADMINISTRATION, TO AMEND)	
THE NOTICING PROCEDURES REGARDING)	
THE PROVISION OF MAILED AND POSTED)	
NOTICE FOR PROPOSED DEVELOPMENT.)	
_____)	

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 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 is 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 the County that the Board of Supervisors amends the text of the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code, as specified below:

Case Number 05ORD-00000-000016: Amend Article II of Chapter 35 of the Santa Barbara County Code, as follows:

Amend DIVISION 7, GENERAL REGULATIONS, DIVISION 11, PERMIT PROCEDURES, and DIVISION 12, ADMINISTRATION to amend the noticing procedures regarding the provision of mailed and posted notice for proposed development.

Said ordinance (05ORD-00000-000016) is attached hereto as Exhibit 1 and is incorporated herein by reference.

- D. Public officials and agencies, civic organizations, and citizens have been and have advised the Planning Commission on the said proposed amendment noticed public hearing pursuant to Section 65353 of the Government Code.

Exhibit 1

Exhibit 1 STB-MAJ-2-06 County Resolution Noticing
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- E. The Planning Commission, after holding duly noticed public hearings on the above described items, has endorsed and submitted this recommended amendment to the Board of Supervisors pursuant to Section 65354 of the Government Code.
- F. The Board of Supervisors has held a duly noticed public hearing, as required by Section 65355 and Section 65856 of the Government Code, on the proposed amendment, at which hearing the amendment was explained and comments invited from the persons in attendance.
- G. The proposed amendment to the Local Coastal Program are consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Local Coastal Program, and the requirements of the State Planning and Zoning Laws as amended to this date.
- H. The Board of Supervisors will submit this amendment to the California Coastal Commission at a later date.

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 adopted as amendments to the Local Coastal Program (Coastal Zoning Ordinance text) of Santa Barbara County.
- 3. The Board of Supervisors certifies that this amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act.
- 4. The Board of Supervisors will submit this Local Coastal Program amendment to the California Coastal Commission for review and certification on the appropriate date.
- 5. The Chair and Clerk of the Board of Supervisors 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.

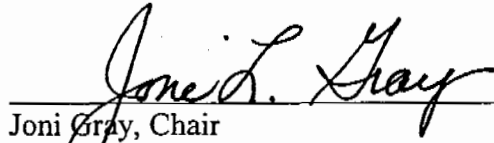
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 24th day of January, 2006 by the following vote:

AYES: Supervisors Carbajal, Rose, Firestone, Gray and Centeno

NOES: None

ABSTAIN: None

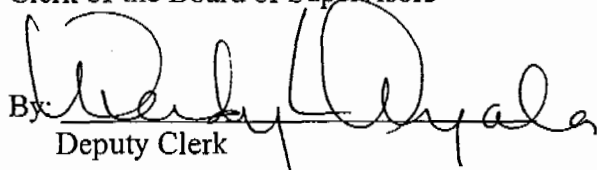
ABSENT: None



Joni Gray, Chair
Board of Supervisors, Santa Barbara County

ATTEST:

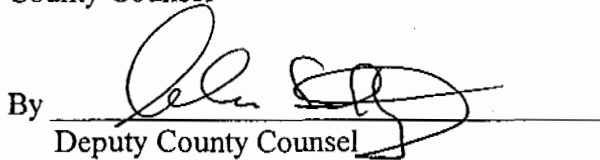
MICHAEL F. BROWN
Clerk of the Board of Supervisors

By: 

Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By: 

Deputy County Counsel

EXHIBITS:

1. Ordinance - Article II (05ORD-00000-000016)

ATTACHMENT

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

IN THE MATTER OF RECOMMENDING)
AMENDMENTS TO THE SANTA BARBARA)
COUNTY COASTAL ZONING ORDINANCE,)
ARTICLE II OF CHAPTER 35 OF THE SANTA)
BARBARA COUNTY CODE TO AMEND)
DIVISION 2, DEFINITIONS; DIVISION 6,)
PARKING REGULATIONS; DIVISION 7,)
GENERAL REGULATIONS; DIVISION 10)
NONCONFORMING STRUCTURES AND USES;))
DIVISION 11, PERMIT PROCEDURES; AND)
DIVISION 12, ADMINISTRATION; TO AMEND)
THE EXISTING DEFINITION OF DIRECTOR;)
REVISE THE EXISTING APPEAL)
PROCEDURES AND REGULATIONS, AND)
MAKE OTHER MINOR REVISIONS.)

RESOLUTION NO.: 06-027
CASE NO.: 05ORD-00000-00019

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 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 is 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 the County that the Board of Supervisors amends the text of the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code, as specified below:

Case Number 05ORD-00000-000019: Amend Article II of Chapter 35 of the Santa Barbara County Code, as follows:

Amend DIVISION 2, DEFINITIONS, DIVISION 6, PARKING REGULATIONS, DIVISION 7, GENERAL REGULATIONS, DIVISION 10, NONCONFORMING STRUCTURES AND USES, DIVISION 11, PERMIT PROCEDURES, and DIVISION 12, ADMINISTRATION to amend the existing definition of Director, revise the existing appeal regulations, and make other minor revisions.

Exhibit 2
STB-MAJ-2-06
County Resolution
Appeals

Said ordinance (05ORD-00000-00019) is attached hereto as Exhibit 1 and is incorporated herein by reference.

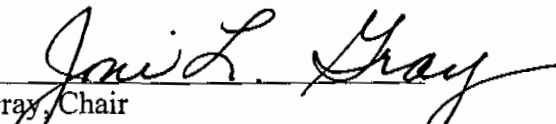
- E. The Planning Commission, after holding duly noticed public hearings on the above described items, has endorsed and submitted this recommended amendment to the Board of Supervisors pursuant to Section 65354 of the Government Code.
- F. The Board of Supervisors has held a duly noticed public hearing, as required by Section 65355 and Section 65856 of the Government Code, on the proposed amendment, at which hearing the amendment was explained and comments invited from the persons in attendance.
- G. The proposed amendment to the Local Coastal Program is consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Local Coastal Program, and the requirements of the State Planning and Zoning Laws as amended to this date.
- H. The Board of Supervisors will submit this amendment to the California Coastal Commission at a later date.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

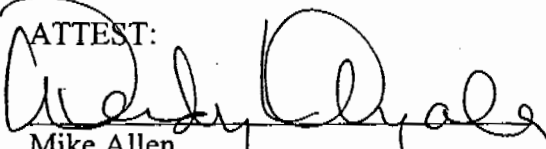
- 1. The above recitations are true and correct.
- 2. Pursuant to the provisions of Section 65356 and 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes are adopted as amendments to the Local Coastal Program (Coastal Zoning Ordinance text) of Santa Barbara County.
- 3. The Board of Supervisors certifies that this amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act.
- 4. The Board of Supervisors will submit this Local Coastal Program amendment to the California Coastal Commission for review and certification on the appropriate date.
- 5. The Chair and Clerk of the Board of Supervisors 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 this January 24th, 2006 by the following vote:

AYES: Supervisors Carbajal, Rose, Firestone, Gray and Centeno
NOES: None
ABSTAIN: None
ABSENT: None



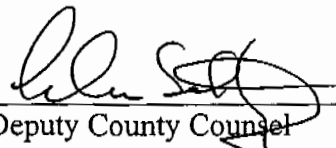
Joni Gray, Chair
Board of Supervisors, Santa Barbara County

ATTEST:


Mike Allen
Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK
COUNTY COUNSEL

By 

Deputy County Counsel

EXHIBITS:

1. Proposed Ordinance (Case No.: 05ORD-00000-00019)

EXHIBIT 1 OF ATTACHMENT C

ORDINANCE NO. 4594

AN ORDINANCE AMENDING ARTICLE II, OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 7, GENERAL REGULATIONS, DIVISION 11, PERMIT PROCEDURES, AND DIVISION 12, ADMINISTRATION TO AMEND THE NOTICING PROCEDURES REGARDING THE PROVISION OF MAILED AND POSTED NOTICE FOR PROPOSED DEVELOPMENT.

Case No. 05ORD-0000-000016 (Article II)

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

SECTION 1:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-142.8 of Section 35-142 to read as follows:

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. 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 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).

SECTION 2:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-143.2 of Section 35-143 to read as follows:

Sec. 35-143.2 Large Family Day Care Homes.

Large Family Day Care Homes shall be considered a residential use pursuant to this Article, provided that the use meets all of the following criteria:

Exhibit 3 STB-MAJ-2-06 Noticing Ordinance

1. The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.
2. The property is located more than 300 feet from any other Large Family Day Care Home and approval will not result in over concentration.
3. The noise level, including noise generated by the children, is consistent with the Noise Element of the Comprehensive Plan.

Review of Large Family Day Care Homes pursuant to this Section is a ministerial action exempt from the California Environmental Quality Act, unless the approval is subject to Sec. 35-169.5. Notice of the application and pending decision on a Coastal Development Permit shall be given in compliance with Sec. 35-181.3.

SECTION 3:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-143.3 of Section 35-143 to read as follows:

Sec. 35-143.3. Non-Residential Child Care Centers.

Non-Residential Childcare Facilities shall be permitted in the C-2, General Commercial and C-1 Limited Commercial zone districts with a Coastal Development Permit (i.e., no development plan) provided that the facility meets all of the following criteria.

1. The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.
2. The ambient noise level does not exceed those standards in the Noise Element for sensitive land uses (e.g., residences and schools).
3. Outdoor play areas are separated from abutting uses by a solid masonry wall not less than four feet in height.
4. The proposed child care center is compatible with on-site and abutting commercial uses, as determined by the Planning & Development Department.
5. The number of students does not exceed 30 and the total gross square footage of the facility including outdoor play areas does not exceed 5,000 square feet.

Review of Non-Residential Child Care facility pursuant to this Section is a ministerial action which is exempt from the California Environmental Quality Act, unless the approval is

subject to Sec. 35-169.5. Notice of the application and pending decision on a Coastal Development Permit shall be provided in compliance with Sec. 35-181.

SECTION 4:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144F.6.1 of Section 35-144F to read as follows:

1. Notice of the application and pending decision on a Coastal Development Permit in compliance with Sec. 35-144F.3.1 shall be given in compliance with Sec. 35-181.

SECTION 5:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144G.5.1 of Section 35-144G to read as follows:

1. Notice of the application and pending decision on a Coastal Development Permit in compliance with Sec. 35-144G.3.1 shall be given in compliance with Sec. 35-181.

SECTION 6:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.4.9 of Section 35-169 to read as follows:

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

SECTION 7:

DIVISION 12, ADMINISTRATION, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-181 to read as follows:

Sec. 35-181. Noticing.

Sec. 35-181.1. Purpose and Intent.

The purpose of this Section is to set forth the minimum requirements for providing notice of a public hearing and other required noticing.

Sec. 35-181.2. Notice of Public Hearing and Decision-Maker Action.

1. **Minimum Requirements.** Except for decisions on Coastal Development Permits not subject to the requirements of Sec. 35-169.5 (Coastal Development Permits) and Land Use Permits, notice shall be given in compliance with Sections 65090 - 65096 of the Government Code for all projects that require a noticed public hearing or notice of decision-maker action (e.g., Amendments to Conditional Use and the following minimum requirements:
 - a. **Newspaper publication.** Notice shall be published in at least one newspaper of general circulation within the County; and circulated in the area affected by the project; at least 10 calendar days before the scheduled public hearing or action by the decision-maker.
 - b. **Mailed notice.** Notice shall be mailed at least 10 calendar days before the scheduled hearing or action by the decision-maker to:
 - 1) Any person who has filed a written request for notice and has supplied the Planning and Development Department with self-addressed stamped envelopes;
 - 2) The applicant(s);
 - 3) Owners of the subject lot, if different from the applicant;
 - 4) Owners of property located within a 300-foot radius of the exterior boundaries of the subject lot. The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
 - 5) Residents located within a 100-foot radius of the exterior boundaries of the subject lot.
 - 6) The Coastal Commission.
 - c. **Optional notice to more than 1,000 owners of property.** If the number of owners and residents to whom notice would be mailed or delivered in compliance with this Section is greater than 1,000, the County may instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least 10 calendar days before the scheduled public hearing or action by the decision-maker.
2. **Contents of Notice.** The contents of the notice shall be in compliance with Sec. 35-181.4.

Sec. 35 181.3. Coastal Development Permit and Land Use Permit Noticing.

1. **Minimum Requirements.** Notice of a the application and pending decision on a Coastal Development Permit not subject to the special hearing requirements of Sec. 35-169.5 (Coastal Development Permits) and not following a previous discretionary action shall be given in compliance with the following:
 - a. **By the Planning and Development Department.** Notice shall be given by the Planning and Development Department in compliance with the following:
 - 1) The Planning and Development Department shall conspicuously post notice at one public place within the County's jurisdiction (e.g., at the Planning and Development Department).
 - 2) Said notice shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.
 - 3) Said notice shall be posted or mailed no later than 15 days following the filing of a complete application with the Planning and Development Department, but in no case shall said notice be posted or mailed less than:
 - a) 10 days before the scheduled date of any review by the Board of Architectural Review, or;
 - b) 10 days following the decision on the permit.
 - 4) Said notice shall be required to be continuously posted for a minimum of 17 days from the date required by Subsection 3), above and shall remain posted for a minimum of 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit.
 - b. **By the applicant.** Notice of an application and pending decision on a Coastal Development Permit shall be given by the applicant in compliance with the following:
 - 1) Mailed notice shall be provided to all residents located within a 100-foot radius of the exterior boundaries of the subject lot and the Coastal Commission.
 - 2) Mailed notice shall be provided to all owners of property located within a 300-foot radius of the exterior boundaries of the subject lot for the specific types of projects listed below. The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.

- a) Development that requires Design Review in compliance with Sec. 35-184 (Board of Architectural Review);
 - b) A new dwelling containing two- or three-story elements or a second or third story addition to an existing dwelling;
 - c) A new accessory structure in excess of 120 square feet or an addition to an existing accessory structure that would exceed 120 square feet;
 - d) A change in the allowed use of a structure;
 - e) Home occupations where clients come to the dwelling where the home occupation is conducted;
 - f) Residential second units, and additions thereto, as may be allowed in compliance with Sec. 35-181 (Residential Second Units.);
 - g) Large Family Day Care Homes, and additions thereto, as may be allowed in compliance with Sec. 35-143.2 (Community Care Facilities);
 - h) Non-residential Child Care Centers, and additions thereto, as may be allowed in compliance with Sec. 35-143.3 (Community Care Facilities);
 - i) Commercial telecommunication facilities, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3.1 (Commercial Telecommunication Facilities); and
 - j) Noncommercial telecommunication facilities as may be allowed in compliance with Sec. 35-144G.3.1 (Noncommercial Telecommunication Facilities) where the height of the antenna and associated support structure exceeds 50 feet.
- 3) Mailed notice shall be provided to all residents located within a 300-foot radius of the exterior boundaries of the subject lot of an application for a commercial telecommunication facility, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3.1 (Commercial Telecommunication Facilities)
- 4) For all other types of projects that require a Coastal Development Permit and are not included under Subsections 2), and 3), above, notice shall be provided in compliance with the following:
- a) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.

- 5) The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
- 6) The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.
- 7) Said notice shall be mailed and posted by the applicant no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be mailed and posted less than 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit.
- 8) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 7), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit.
- 9) The applicant shall provide proof of the mailing and posting of the required notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department no later 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit. Failure of the applicant to comply with this Section may result in denial and or revocation of the Coastal Development Permit.

2. Minimum requirements for Coastal Development Permits and Land Use Permits following a previous discretionary action.

Notice of a pending decision on a Coastal Development Permit or Land Use Permit following a previous discretionary action and with the same project description shall be given in compliance with the following:

- a. **By the Planning and Development Department.** Notice shall be given by the Planning and Development Department in compliance with the following:
 - 1) The Planning and Development Department shall conspicuously post notice at one public place within the County's jurisdiction (e.g., at the Planning and Development Department).

- 2) Said notice shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.
 - 3) Said notice shall be mailed and posted no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be mailed and posted less than 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.
 - 4) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 3), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.
- b. **By the applicant.** Notice of an application and pending decision on a Coastal Development Permit or Land Use Permit shall be given by the applicant in compliance with the following:
- 1) Mailed notice shall be provided to all residents located within a 100-foot radius of the exterior boundaries of the subject lot and the Coastal Commission.
 - 2) Mailed notice shall be provided to all parties that received notice of the previous discretionary action.
 - 3) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.
 - 4) The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
 - 5) The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.
 - 6) Said notice shall be mailed and posted by the applicant no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be mailed and posted less than 10 days before the scheduled date of any review by the Board of Architectural

Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.

- 7) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 6), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.
- 8) The applicant shall provide proof of the mailing and posting of the required notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department no later 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit. Failure of the applicant to comply with this Section may result in denial and or revocation of the Coastal Development Permit or Land Use Permit.

3. Contents of Notice. The contents of the notice shall be in compliance with Sec. 35-181.4.

Sec. 35-181.4. Contents of Notice.

1. **Notice for all projects.** The following shall be included in all notices required to be provided in compliance with this Section:
 - a. The date of filing of the application and the name of the applicant.
 - b. The Planning and Development Department case number assigned to the application.
 - c. The name of the Planning and Development staff person assigned to review the application and their postal mail address, electronic mail address, and telephone number.
 - d. A description of the project, its location, and a statement that the project is located is within the Coastal Zone.
2. **Notice for projects that require a public hearing or discretionary decision-maker action.** The following shall be included in all notices for projects that require a public hearing or discretionary action by a decision-maker.
 - a. All information required by Subsection 1., above.
 - b. The place, date, and general time of the hearing at which the project will be heard by the decision-maker, if the action requires a public hearing. If the project does not require a public hearing, then only the date of pending action or decision of the decision-maker is required.

- c. A general description of the County procedures concerning the conduct of public hearings and local actions, including the submission of public comments either in writing or orally before the hearing or local decision, and requirements regarding the procedure to appeal the decision.
 - d. The procedure for Coastal Commission appeals, including any required appeals fees.
- 3. Notice for projects that do not require a public hearing or 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; and
 - 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 date of the pending decision on the Coastal Development Permit or Land Use Permit, and 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 of public comments on the requested Coastal Development Permit or Land Use Permit, excluding permits that follow a previous discretionary approval.

Sec. 35-181.5. Notice of Final Action for Coastal Development Permits Appealable to the Coastal Commission.)

For those developments that are appealable to the Coastal Commission (see definition of Appealable Development and Section 35-182.4, Appeals), notice of the approval of a Coastal Development Permit shall be given to the Coastal Commission and to any interested person who

Exhibit 3

has requested such notice and has submitted a self addressed stamped envelope to the Planning and Development Department. Said notice shall be given within five calendar days of the final action. Such notice shall include conditions of approval, findings, and the procedure for appeal of the County's action to the Coastal Commission.

Sec. 35 181.6. Failure to Receive Notice.

The failure of any person or entity to receive notice given in compliance with this Section or in compliance with State Law (Government Code Sections 65090-65096) shall not invalidate the actions of the Planning and Development Department or the decision-maker.

SECTION 8:

Except as amended by this Ordinance, Divisions 7, 11 and 12 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 9:

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 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.

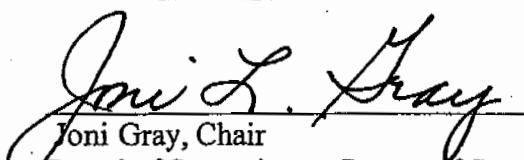
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 24th day of January, 2006, by the following vote:

AYES: Supervisors Carbajal, Rose, Firestone, Gray and Centeno

NOES: None

ABSTAINED: None

ABSENT: None


Joni Gray, 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 OF ATTACHMENT

ORDINANCE NO. 4595

AN ORDINANCE AMENDING ARTICLE II, OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 2, DEFINITIONS; DIVISION 6, PARKING REGULATIONS, DIVISION 7, GENERAL REGULATIONS, DIVISION 10, NONCONFORMING STRUCTURES AND USES, DIVISION 11, PERMIT PROCEDURES, AND DIVISION 12, ADMINISTRATION TO AMEND THE EXISTING DEFINITION OF DIRECTOR; REVISE THE EXISTING APPEAL PROCEDURES AND REGULATIONS, AND MAKE OTHER MINOR REVISIONS.

Case No. 05ORD-0000-000019 (Article II)

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 Section 35-58 to revise the existing definition of Director to read as follows:

DIRECTOR: The Director of the Santa Barbara County Planning and Development Department, including designees of the Director.

SECTION 2:

DIVISION 5, OVERLAY DISTRICTS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-96.3.5 of Section 35-96, View Corridor Overlay District, to read as follows:

5. The action of the Board of Architectural Review is final subject to appeal in compliance with Sec. 35-182.

SECTION 3:

DIVISION 6, PARKING REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-117.3 of Section 35-117, Driveways, to read as follows:

Sec. 35-117. Driveways.

3. Special Requirements: Upon recommendation of the Public Works Department or the Director or upon their own initiative when considering any project, the Planning Commission may place special requirements on an individual building site that will have the effect of reducing or increasing the number or width of driveways or presc
Exhibit 4 location on the building site when the Commission determines that su

requirements either reduce or do not create traffic hazards or street parking problems. Such special requirements shall be final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 4:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-119.9 of Section 35-119, Accessory Structures, to read as follows:

9. Accessory buildings and structures shall not be used for sleeping purposes and shall not be used as guest houses, artist studios, or cabañas, unless specifically permitted for such use. An accessory building or structure, or portion thereof, including guest houses, artist studios and cabanas, may be determined to constitute a dwelling by the Director when it is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of bathing facilities, closets, countertops or cupboards, dishwashers, exterior entrances, exterior staircases, garbage disposals, interior locking doors, separate addresses/mail box designations, separate balconies, decks, patios or yards, separate cable lines, phone lines or utility lines, separate carports, garages or parking areas (covered or uncovered), sleeping lofts, toilets, and sinks or bar sinks. Issuance of a building permit or other approval does not, of itself, establish that a building or portion thereof is not a dwelling unit. Said determination by the Director is considered a decision of the Director that may be appealed in compliance with Sec. 35-489 (Appeals). If, after appeal to the Planning Commission and, if required, the Board of Supervisors the determination that the accessory building or structure, or portion thereof constitutes a dwelling is maintained, then the dwelling may be subject to an enforcement action pursuant to Sec. 35-185 (Administration – Enforcement, Legal Procedures and Penalties) as appropriate.

SECTION 5:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-137.7.1 of Section 35-137, Temporary Uses, to read as follows:

1. Notwithstanding the provisions of Sec. 35-182 (Appeals), the approval, approval with conditions, or denial of a Coastal Development Permit for a temporary use listed in Sec.

35-137.3.2 may be appealed to the Zoning Administrator by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and the accompanying fee, must be filed with the Planning and Development Department within 10 calendar days following of the date of the decision of the Planning and Development Department. The Zoning Administrator shall hold a hearing on the appeal no later than 12 hours prior to the time the event is scheduled to commence and will render a decision as soon as practicable and in no case later than the time the temporary use is scheduled to commence. The decision of the Zoning Administrator shall be final. Notwithstanding the provisions of Sec. 35-181 (Noticing), mailed and published notice is not required to be given of said hearing, however, the date, time and location of the hearing shall be provided to the applicant, appellant, and any interested person who has filed a written request with the Planning and Development Department for notice of approved permits on the subject lot. If the lot for which the Coastal Development Permit for a temporary use is located within the Montecito Planning Area, the appeal shall be to the Chair of the Montecito Planning Commission, or designee, instead of the Zoning Administrator.

2. The approval, approval with conditions, or denial of a conditional use permit for a temporary use listed in Sec. 35-137.3.3 may be appealed in compliance with Sec. 35-182.3 (Appeals).

SECTION 6:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-142.9 of Section 35-142, Residential Second Units, to read as follows:

Sec. 35-142.9. Appeals.

The decision of the Director to approve or conditionally approve an application for a residential second unit is final subject to appeal in compliance with Sec. 35-489 (Appeals). ; 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 applicable provisions and policies of this Article and the Coastal Land Use Plan. The decision of the Director to deny an application for a residential second unit is final subject to in compliance with Sec. 35-182 (Appeals). 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 in compliance with Section 182 (Appeals).

SECTION 7:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144F.5.2 of Section 35-144F, Commercial Telecommunication Facilities, to read as follows:

2. Project Review.

- a. Five years after the issuance of the initial land use permit for the facility and no more frequently than every five years thereafter, the Director of Planning and Development may undertake inspection of the project and require the permittee to modify its facilities. Modifications may be required if, at the time of inspection it is determined that:

- 1) The project fails to achieve the intended purposes of the development standards listed in Section 35-144F.4 for reasons attributable to design or changes in environmental setting; or
- 2) More effective means of ensuring aesthetic compatibility with surrounding uses become available as a result of subsequent technological advances or changes in circumstance from the time the project was initially approved.

The Director's decision shall take into account the availability of new technology, capacity and coverage requirements of the permittee, and new facilities installed in the vicinity of the site. The scope of modification, if required, may include, but not be limited to a reduction in antenna size and height, collocation at an alternate permitted site, and similar site and architectural design changes. However, the permittee shall not be required to undertake changes that exceed ten percent of the total cost of facility construction. The decision of the Director as to modifications required under this section is final subject to appeal in compliance with Sec. 35-182 (Appeals).

- b. Every telecommunication facility shall demonstrate continued compliance with the NIER standard established by this section.
 - 1) Every five years, or other time period as specified by the decision-maker as a condition of approval of the project, a report listing the effective radiated power radiated of the whole facility shall be submitted by the newest carrier operating at the facility to the Director of Planning and Development. If the effective radiated power has changed, calculations specifying NIER levels in inhabited areas shall be prepared and submitted with the report. NIER calculations shall

also be prepared every time the adopted NIER standard changes by the newest carrier locating on the facility.

- 2) If calculated levels in either of these cases exceed 80 percent of the NIER standard established by this section, the said carrier shall notify the Director and the Director shall hire a qualified electrical engineer licensed by the State of California to measure actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Director within five years of facility approval and every five years thereafter. The cost of the preparation of said reports shall be paid for by said carrier.
- 3) In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.
- 4) Failure to supply the required reports within 30 days following the date that written notice is mailed by the Director that such compliance report is due or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement of use by the Director. The decision of the Director to revoke a use permit or other entitlement of use is final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 8

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35144F.5.3 of Section 35-144F, Commercial Telecommunication Facilities, to read as follows:

3. Collocation. Following initial approval of a telecommunication project, the permittee shall avail its facility to other prospective applicants and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following limits:
 - a. The party seeking the co-location shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs and permit processing.
 - b. The permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk.

- c. Applicants shall make facilities and property available for collocation of telecommunication facilities on a non discriminatory and equitable basis. County retains the right to verify that the use of the facilities and property conforms with County policies regarding collocation and to impose additional permit conditions where necessary to assure these policies are being fulfilled.
- d. In the event that the need for access to such facilities is demonstrated by other developers to the decision-maker, carriers shall make available to such other developers any excess space of their project facilities at an equitable cost.
- e. In the event access to an existing facility is denied by the applicant, and at the request of the carrier requesting to collocate, the applicant shall submit to the Director of Planning and Development terms, including financial terms, under which other carriers in the area would be permitted to enter and use either the facilities or the property. In addition, the applicant shall submit a record of the typical financial terms used for similar facilities at other locations. The applicant shall submit the requested information to the Director of Planning and Development within 30 days of such request. If these terms are determined to be unacceptable to potential users of the facility and if agreement cannot be reached, the County shall reserve the right to impose additional conditions as described above by the Director to amend the permit. The imposition of such conditions shall be based on evidence of the charges and terms supplied by the applicant and the carrier requesting to collocate. The decision of the Director to impose additional conditions is final subject to appeal in compliance with Sec. 35-489 (Appeals). The intent of this condition is to ensure the efficient and maximum use of collocated telecommunication facilities in the County.

SECTION 9:

DIVISION 7, GENERAL REGULATIONS, of Article IV of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144I.4 of Section 35-144I, Wildlife Species Rehabilitation, to read as follows:

- 4. Development standards: All wildlife species rehabilitation shall comply with the following development standards.
 - a. On any lot having a residential zone classification, no stable, barn or other enclosure for large animals shall be located on a lot having a gross area of less than 20,000

square feet. No portion of a stable, barn or other enclosure for large animals shall be located closer than:

- 1) 40 feet to any dwelling located on another lot.
 - 2) 70 feet to any street centerline and 20 feet to any right-of-way line.
 - 3) 15 feet from rear property lines.
 - 4) 10 feet from side property lines.
 - 5) 10 feet from the property lines of an interior lot.
- b. Odor and vector control: All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.
- c. Storage and disposal of animal waste: All animal waste generated by the wildlife species rehabilitation facility shall be removed and stored or disposed of to prevent unsanitary conditions and breeding of flies.
- d. The wildlife species rehabilitation shall be conducted in a manner that is not injurious to the health, safety, or welfare of the neighborhood and does not create offensive noise or odor as determined by the Director after advice from the County Public Health Department. If the Director determines that the wildlife species rehabilitation is injurious to the health, safety, or welfare of the neighborhood and/or does create offensive noise or odor, the Director may order the cessation of such wildlife species rehabilitation activities. This decision of the Director is final subject to appeal in compliance with Sec. 35-489.2 (Appeals).

SECTION 10:

DIVISION 10, NONCONFORMING STRUCTURES AND USES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-161.7 of Section 35-161, Nonconforming Structures and Uses, to read as follows:

Sec. 35-161. Nonconforming Use of Land, Buildings and Structures.

7. Limited Exception Determinations for Certain Nonconforming Industrial Uses. Notwithstanding the foregoing, the County finds that the need may exist to improve the safety or reduce the environmental effects of certain nonconforming industrial uses by allowing minor changes that could result in minor enlargements, extensions, expansions or structural alterations (e.g., installation of emergency back-up generator for fire protection equipment,

modifications to emergency shutdown system) to buildings or structures dedicated to such nonconforming uses, despite the fact that they do not conform to all current provisions of this Article. Therefore, an improvement comprising of minor enlargements, extensions, expansions or structural alterations of a building or structure dedicated to an industrial, public works, or energy-related nonconforming use may be allowed, subject to the following process and findings:

a. Process

- 1) No permits shall be issued for development, including grading, unless and until a Limited Exception Determination by the Planning Commission is first granted for the proposed improvement. Where no discretionary permit has previously been issued for the existing nonconforming industrial use, appropriate non-discretionary permits may be issued after a Limited Exception Determination has been granted. Where a discretionary permit has been previously issued, changes to that permit may be made pursuant to the provisions of this Article and the appropriate non-discretionary permits may be issued after a Limited Exception Determination has been granted. The action of the Planning Commission on the Limited Exception Determination is final subject to appeal in compliance with Sec. 35-182.3 (Appeals).
- 2) Unless otherwise specifically waived by the Planning and Development Director, 10 copies of the following information shall be submitted:
 - a) Description of project objectives;
 - b) Project description, including construction requirements (schedule, equipment, labor, parking), physical changes to existing facilities, and any changes to facility operations or ancillary operations (truck trips, hazardous materials storage, etc.) as a result of the improvement;
 - c) Map showing contiguous properties, including Assessor Parcel Numbers and property owners' names;
 - d) Site plan to scale showing all existing and proposed facilities on the site. The new components, modifications to existing equipment, and any components to be removed shall be highlighted;
 - e) Design specifications for any new components;
 - f) Estimated expenditures for the improvement, including materials, labor, and equipment;

- g) Photographs of the site showing the area where the improvement is proposed;
 - h) Identification of any increase in utility use or demand as a result of the improvement (water, electricity, natural gas);
 - i) Written justification and such data, report(s), and documentation that demonstrates and verifies the improvement's public health and safety benefit or environmental benefit. In all cases, the burden of proof shall be on the applicant to provide evidence verifying the public health and safety or environmental benefit.
 - j) Any other supplemental data or information requested by the Planning and Development Department.
- 3) The Planning and Development Department shall distribute the material to the appropriate County Departments for a 30-day application completeness review.
 - 4) Upon determination of application completeness, the Planning and Development Department shall conduct an assessment of the public health and safety and/or environmental benefits of the application and shall conduct environmental review. Information from such benefit assessment or the environmental review shall be included for use to support the Planning Commission's action on a Limited Exception Determination.
- b. Limited Exception Determination Findings. A Limited Exception Determination for an improvement that results in the minor enlargement, extension, expansion or structural alteration to a building or structure dedicated to an industrial, public works, or energy-related nonconforming use may be granted provided that the following findings are made by the Planning Commission at a noticed public hearing:
- 1) The improvement has a demonstrable public health and safety, or environmental benefit (e.g., would reduce the risk of a hazardous material spill or reduce air emissions).
 - 2) The improvement does not result in any new un-mitigated significant environmental impacts.
 - 3) The improvement does not result in an increase in the overall intensity of use beyond the existing permitted use (e.g., output/throughput per day) or, for facilities where no permits exist, would not increase the overall intensity of use beyond the current operating limits.

- 4) The improvement does not extend or expand the existing developed industrial site boundary within a parcel.
- 5) The improvement does not result in an expansion or extension of life of the nonconforming use due to increased capacity of the structure dedicated to the nonconforming use, or from increased access to a resource, or from an opportunity to increase recovery of an existing resource. Any extension in the life of the nonconforming use affected by the improvement results solely from improved operational efficiency and is incidental to the primary purpose of improving public health and safety or providing an environmental benefit.
- 6) The improvement does not allow for processing of "new production" as defined Section 35-154.
- 7) If prior Limited Exception Determinations have been made for the same nonconforming use under this section, the successive Limited Exception Determinations cumulatively provide a public health and safety or environmental benefit.

SECTION 11:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.4.3 of Section 35-169, Coastal Development Permits, to read as follows:

3. The decision of the Director to approve, conditionally approve or deny a Coastal Development Permit not subject to the additional requirements of Section 35-169.5. (Special Processing for Coastal Development Permits within a Geographic Appeals Area or for a Major Public Works Project) is final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 12:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.5.3 of Section 35-169, Coastal Development Permits, to read as follows:

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 is final subject to appeal in compliance with 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.

SECTION 13:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.8 of Section 35-169, Coastal Development Permits to read as follows:

Sec. 35-169.8. Coastal Commission Changes to the County Action on Coastal Development Permit.

Where an appeal has been filed with the Coastal Commission in compliance with Sec. 35 182-4. (Appeals) and the Coastal Commission has reversed or modified the action of the County on the Coastal Development Permit, the action of the Coastal Commission on the Coastal Development Permit is final. If the County has approved the Coastal Development Permit, any previously approved County project permits shall be automatically amended to conform to the Coastal Commission's approved Coastal Development Permit for the project or automatically terminated to conform to the Coastal Commission's disapproval of the Coastal Development Permit.

If the County has disapproved the Coastal Development Permit and the Coastal Commission approved the permit, the applicant must reapply to the County for approval of the other required but previously denied project permits (e.g., Development Plan, Conditional Use Permit) in order for the County to impose appropriate conditions. However, the County's action on said re-applications must be consistent with the approved Coastal Development Permit. In the case where the Coastal Commission has imposed appropriate conditions on the Coastal Development Permit as determined by the Subdivision/Development Review Committee, the Director may waive this reapplication requirement.

SECTION 14:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.9 of Section 35-169, Coastal Development Permits to read as follows: Page 11 of 23

Sec. 35 169.9. Revocation.

Issuance of the Coastal Development Permit is contingent upon compliance with all conditions imposed as part of the project approval. If it is determined that development activity is occurring in violation of any or all such conditions, the Director may revoke this Permit and all authorization for development. Written notice of such Revocation shall be provided to the permittee. The decision of the Director to revoke the Coastal Development Permit may be appealed in compliance with Sec. 35-182.

SECTION 15:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-172.7.4 of Section 35-172, Conditional Use Permits to read as follows:

4. The action of the Planning Commission or Zoning Administrator is final subject to appeal in compliance with Sec. 35-182 (Appeals). Under PRC Section 30603, the issuance of a Coastal Development Permit on a conditionally permitted use is appealable to the Coastal Commission as provided in Sec. 35-182 (Appeals).

SECTION 16:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-173.5.3 of Section 35-173, Variances, to read as follows:

3. The action of the Zoning Administrator is final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 17:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-174.4.4 of Section 35-174, Development Plans, to read as follows:

4. If the Preliminary Development Plan is under the jurisdiction of the Director as provided in Sec. 35-174.2, a public hearing shall not be required. However, notice shall be given at least 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 Preliminary Development Plan. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).

SECTION 18:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-174.4.5 of Section 35-174, Development Plans, to read as follows:

5. The Planning Commission or Zoning Administrator shall consider Preliminary Development Plans within their jurisdiction at a noticed public hearing and approve, conditionally approve, approve with modification of development standards, or deny the plan. The action of the Planning Commission or Zoning Administrator is final, subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 19:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-174.6.3 of Section 35-174, Development Plans, to read as follows:

3. When the Board of Supervisors, Planning Commission, Zoning Administrator, or Director has approved the Preliminary Development Plan, the Director shall review the Final Development Plan to determine that the plan is in substantial conformity with the Preliminary Development Plan, pursuant to the provisions set forth in this Section. The Director shall approve, conditionally approve, or deny the Final Development Plan, without a public hearing. Notice shall be given 10 days prior to the Director's decision pursuant to Section 35-181. The Director's action shall be final subject to appeal in compliance with Section 35-182 (Appeals).

SECTION 20:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-176.4.3 of Section 35-176, Oil and Gas Exploration Plans, to read as follows:

3. The Planning Commission shall then consider the Exploration Plan at a noticed public hearing and approve, conditionally approve, or disapprove the plan. The Planning Commission's action shall be final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 21:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-176.9.3 of Section 35-176, Oil and Gas Exploration Plans, to read as follows:

3. The Planning Commission shall then consider the Production Plan at a noticed public hearing and approve, conditionally approve, or disapprove the plan. The Planning Commission's action shall be final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 22:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-177.6.4 of Section 35-177, Reclamation and Surface Mining Permits, to read as follows:

4. The decisions of the Planning Commission with respect to reclamation plans and surface mining permits shall be final except that within 12 days after the action of the Planning Commission, the Board of Supervisors, on its own initiation, may modify or reverse the action of the Planning Commission by order and any action of the Planning Commission is subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 23:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add Section 35-178.4.4 to Section 35-178, Land Use Permits, to read as follows:

4. The decision of the Director to approve, conditionally approve, or deny a Land Use Permit shall be final, subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 24:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-179.5.5 of Section 35-179, Modifications, to read as follows:

5. The decision of the Zoning Administrator to approve, conditionally approve, or deny a Modification is final subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 25:

DIVISION 12, ADMINISTRATION, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to rescind the existing language of Section 35-182, Appeals, in its entirety and replace it with the following language to read as follows:

Sec. 35-182. Appeals.

Sec. 35-182.1. Purpose and Intent.

The purpose of this Section is to provide procedures for the acceptance and processing of appeals to the Board of Supervisors, Planning Commission and Zoning Administrator and to establish the criteria for those developments that may be appealed to the California Coastal Commission.

Sec. 35-182.2. General Appeal Procedures.

Except for those actions on Coastal Development Permits which may be appealed to the Coastal Commission as provided under Sec. 35-182.5, the decisions or determinations of the Board of Architectural Review, Director, Planning Commission, or Zoning Administrator may be appealed as follows:

A. Who May Appeal.

An appeal may only be filed by an applicant or any aggrieved person or any two members of the Coastal Commission. An aggrieved person is defined as any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing or decision, informed the decision-maker of the nature of his concerns or who for good cause was unable to do either.

B. Timing and Form of Appeal.

1. Appeals of decisions of the Board of Architectural Review, Director, Planning Commission or Zoning Administrator.

- a. An appeal of a decision of the Board of Architectural Review, Director, Planning Commission or Zoning Administrator shall be filed within the 10 calendar days following the decision or determination that is the subject of the appeal except as otherwise provided in this Article.
- b. The appellant shall use the form provided by the Department in addition to any other supporting materials the appellant may wish to furnish in compliance with Sec. 35-182.2.C, explaining the reasons for the appeal. An appeal shall be filed with the

Director, who shall process the appeal in compliance with this section, including scheduling the matter before the appropriate decision-maker.

2. **Computation of time for appeal.** The time within which the appeal shall be filed shall commence on the day following the day on which the decision was made or the determination was made. In the event the last day for filing an appeal falls on a non-business day of the County, the appeal may be timely filed on the next business day.

C. Requirements for Contents of an Appeal.

1. **General requirements.** The appellant shall specifically provide in the appeal all of the following:

- a. The identity of the appellant and her or his interest in the decision;
- b. The identity of the decision or determination appealed which may include the conditions of that decision or determination;
- c. A clear, complete, and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of this Article or other applicable law;
- d. If it is claimed that there was error or abuse of discretion on the part of the Board of Architectural Review, Director, Planning Commission, Zoning Administrator, or other officer or authorized employee, or that there was a lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration leading to the making of the decision or determination that is being appealed, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made, then these grounds shall be specifically stated.

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.C.1:

- a. **Appeals Regarding a Previously Approved Discretionary Permit.** If the approval of a Coastal Development Permit or Land Use Permit required by a previously approved discretionary permit is appealed, the appellant shall identify:
 - (1) How the Coastal Development Permit or Land Use Permit is inconsistent with the previously approved discretionary permit, or

- (2) How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Coastal Development Permit or Land Use Permit have not been completed, or
 - (3) How the approval is inconsistent with Section 35-181 (Noticing).
- b. Appeals of Final Decision of the Board of Architectural Review.** A decision of the Board of Architectural Review to grant final approval may not be appealed to the Planning Commission unless the appellant can demonstrate that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval. If the Director determines that the appeal does not raise a substantial issue that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval, then the Director shall make that determination in writing, and the appeal shall not be processed. This decision of the Director is final and not subject to appeal.
- D. Acceptance of Appeal.** An appeal shall not be accepted by the Director unless it is complete and complies with all requirements of Sec. 35-182.2.C. This decision of the Director is final and not subject to appeal.
- E. Appeal Fees.** The appellant shall pay the required filing fee, as established from time to time by resolution of the Board of Supervisors, at the time of the filing of the appeal.
- F. Effect of Filing of Appeal.** The filing of the appeal shall have the effect of staying the issuance of any permit or approval provided for by the terms of this Article until such time as final action has occurred on the appeal.
- G. Notice of Public Hearing Required.** Notice of the time and place of the hearing shall be given in compliance with Sec. 35-181 (Noticing). Notice shall be mailed to the appellant and the applicant, if different than the appellant.
- H. Special Processing Requirements.** The following requirements apply to applications for Zoning Clearance and Coastal Development Permits that also require review by the Board of Architectural Review:
1. If a preliminary approval by the Board of Architectural Review is appealed, then the hearing on the appeal shall be held after the approval of the Zoning Clearance or Coastal Development Permit, but prior to the issuance of the Coastal Development Permit for such project.
 2. If a preliminary approval by the Board of Architectural Review is appealed, and the approval of the Coastal Development Permit is appealed, then the appeal of the

preliminary approval by the Board of Architectural Review shall be processed concurrently with the appeal of the Coastal Development Permit.

3. If a decision of the Board of Architectural Review to deny preliminary or final approval is appealed, a hearing shall be held on the appeal of the decision of the Board of Architectural Review prior to the decision on the Zoning Clearance or Coastal Development Permit.

Sec. 35 182.3. Appeals to the Zoning Administrator.

A. Decisions appealed to the Zoning Administrator. The following decisions of the Director may be appealed to the Zoning Administrator:

1. Any decision by the Director to approve, approve with conditions, or deny an application for a Land Use Permit for temporary use in compliance with Sec. 35-137 (Temporary Uses) may be appealed to the Zoning Administrator in compliance with Sec. 35-137.7.1.

B. Public Hearing Required. Notice of the time and place of the hearing shall be given in compliance with Sec. 35-137 (Temporary Uses). Notice shall be mailed to the appellant and the applicant, if different than the appellant.

C. Action on Appeal. The Zoning Administrator shall affirm, reverse, or modify the decision of the Director. The action of the Zoning Administrator is final and not subject to appeal.

Sec. 35-182.4. Appeals to the Planning Commission.

A. Decisions appealed to the Planning Commission. The following decisions may be appealed to the Planning Commission provided the appeal complies with the requirements of Sec. 35-182.2.C. and D.

1. Board of Architectural Review decisions. The following decisions of the Board of Architectural Review may be appealed to the Planning Commission:

- a. Any decision of the Board of Architectural Review to grant or deny preliminary approval.
- b. Any decision of the Board of Architectural Review to grant or deny final approval in compliance with Sec. 35-182.C.2.c.

2. Director decisions. The following decisions of the Director may be appealed to the Planning Commission:

- a. Any determination on the meaning or applicability of the provisions of this Article;
- b. Any determination that a discretionary permit application or information submitted with the application is incomplete as provided by Government Code Section 65943;

- c. Any decision of the Director to revoke an approved or issued Land Use Permit.
 - d. Any decision of the Director to approve or deny an application for a Coastal Development Permit except for Coastal Development Permit approved in compliance with Section 35-137 (Temporary Uses).
 - e. Any decision of the Director to revoke an approved Zoning Clearance.
 - f. Any decision of the Director to approve, approve with conditions, or deny an application for a Development Plan.
 - g. Any decision of the Director to approve, approve with conditions, or deny any other discretionary application where the Director is the designated decision-maker.
 - h. Any other action, decision or determination made by the Director as authorized by this Article where the Director is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.
3. **Zoning Administrator decisions.** The following decisions of the Zoning Administrator may be appealed to the Planning Commission, except that when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan, the decision of the Zoning Administrator may be appealed to the Board of Supervisors.
- a. Any decision of the Zoning Administrator to approve, approve with conditions, or deny an application for a Conditional Use Permit, Development Plan, Lot Line Adjustment, Modification, Variance, or other discretionary application where the Zoning Administrator is the designated decision-maker.
 - b. Any other action, decision or determination made by the Zoning Administrator as authorized by this Article where the Zoning Administrator is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.
- B. **Report to the Planning Commission.** The 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 Board of Architectural Review, Director or Zoning Administrator before the hearing on an appeal.
- C. **Scope of Appeal Hearings.** The hearings on the appeal shall be de novo.
- D. **Action on Appeal.** The Planning Commission shall affirm, reverse, or modify the decision of the Board of Architectural Review, Director, or Zoning Administrator.

Sec. 35-182.5. Appeals to the Board of Supervisors.

- A. Decisions appealed to the Board.** The following decisions of the Planning Commission may be appealed to the Board of Supervisors provided the appeal complies with the requirements of Sec. 35-182.2.C. and D.
1. Any final action on decisions that are appealed to the Planning Commission in compliance with Sec. 35-182.4. (Appeals to the Planning Commission).
 2. Any final action on decisions of the Planning Commission to approve, approve with conditions, or deny an application for a Conditional Use Permit, Development Plan, Lot Line Adjustment, Tentative Map, Variance, or other discretionary application where the Planning Commission is the designated decision-maker.
 3. Any other action, decision or determination made by the Planning Commission as authorized by this Article where the Planning Commission is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.
 4. Any decision of the Zoning Administrator to approve, approve with conditions, or deny an application for a Conditional Use Permit, Development Plan, Lot Line Adjustment, Modification, Variance, or other discretionary application where the Zoning Administrator is the designated decision-maker when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan.
 5. Any other action, decision or determination made by the Zoning Administrator as authorized by this Article where the Zoning Administrator is the decision-maker when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan except when specifically provided that such action, decision or determination is final and not subject to appeal.
- B. Report to the Board of Supervisors.** The Department shall transmit to the Board of Supervisors copies of the permit application including all maps and data and a statement setting forth the reasons for the decision by the Planning Commission before the hearing on an appeal.
- C. Scope of Appeal Hearings.** The hearings on the appeal shall be de novo.
- D. Action on Appeal.** The Board of Supervisors shall affirm, reverse, or modify the decision of the Planning Decision.

Sec. 35-182.5. Appeals to the Coastal Commission.

1. For developments which are subject to the appeals jurisdiction of the Coastal Commission under PRC Section 30603, an action 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 by the applicant, an aggrieved person, or any two members of the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office. No appeal may be filed with the Coastal Commission until local appeals have been exhausted on the project permit.
2. 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.
 - a. Developments approved by the County between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as indicated on the official County appeals zone maps.
 - b. Developments approved by the County not included within paragraph (a) of this section located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff, as indicated on the official County appeals zone map or as determined by the State Lands Commission.
 - c. Developments approved by the County that require a Conditional Use Permit.
 - 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.
3. Grounds of Appeal.
 - a. The grounds of appeal for any development appealable under 2.a., of this Section shall be limited to one or more of the following:
 - 1) The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.
 - 2) The development fails to protect public views from any road or from a recreation area to, and along, the coast.

- 3) The development is not compatible with the established physical scale of the area.
 - 4) The development may significantly alter existing natural landforms.
 - 5) The development does not comply with shoreline erosion and geologic setback requirements.
 - 6) The development is not in conformity with the Local Coastal Program.
- b. The grounds of appeal for any development appealable under 2.b.c., and d. of this section shall be limited to whether development is in conformity with the Local Coastal Program.

SECTION 26:

Except as amended by this Ordinance, Divisions 2, 6, 7, 11 and 12 of Article II of Chapter 35 shall remain unchanged and shall continue in full force and effect.

SECTION 27:

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 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.

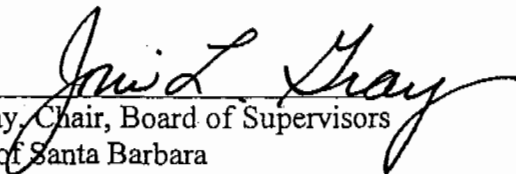
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 24th day of January, 2006, by the following vote:

AYES:

NOES:


ABSTAINED:

ABSENT:


Joni Gray, Chair, Board of Supervisors
County of Santa Barbara

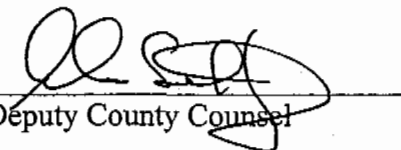
ATTEST:

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

ORDINANCE NO. 4594

AN ORDINANCE AMENDING ARTICLE II, OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 7, GENERAL REGULATIONS, DIVISION 11, PERMIT PROCEDURES, AND DIVISION 12, ADMINISTRATION TO AMEND THE NOTICING PROCEDURES REGARDING THE PROVISION OF MAILED AND POSTED NOTICE FOR PROPOSED DEVELOPMENT.

Case No. 05ORD-0000-000016(Article II)

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

SECTION 1:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-142.8 of Section 35-142 to read as follows:

Sec. 35-142.8. Noticing.

1. Notice of the application and pending decision ~~an approved or conditionally approved 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. 35-181.3 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 of an approved or conditionally approved Coastal Development Permit are limited to the demonstration that the project ~~for which the Coastal Development Permit was approved or conditionally approved~~ is inconsistent with the 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) ~~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.~~

SECTION 2:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-143.2 of Section 35-143 to read as follows:

Sec. 35-143.2 Large Family Day Care Homes.

Large Family Day Care Homes shall be considered a residential use pursuant to this Article, provided that the use meets all of the following criteria:

1. The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.
2. The property is located more than ~~three hundred (300)~~ feet from any other Large Family Day Care Home and approval will not result in over concentration.
3. The noise level, including noise generated by the children, is consistent with the Noise Element of the Comprehensive Plan.

Review of Large Family Day Care Homes pursuant to this Section is a ministerial action exempt from the California Environmental Quality Act, unless the approval is subject to Sec. 35-169.5. Notice of the application and pending decision on a ~~The Coastal Development Permit approval shall be noticed pursuant to given in compliance with~~ Sec. 35-181.3, ~~except that notice shall be mailed to all property owners within a three hundred (300) foot radius of the site.~~

SECTION 3:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-143.3 of Section 35-143 to read as follows:

Sec. 35-143.3. Non-Residential Child Care Centers.

Non-Residential Childcare Facilities shall be permitted in the C-2, General Commercial and C-1 Limited Commercial zone districts with a Coastal Development Permit (i.e., no development plan) provided that the facility meets all of the following criteria.

1. The provider has obtained a license or a statement of exemption from licensing requirements from the California State Department of Social Services pursuant to Health and Safety Code Section 1597.51.
2. The ambient noise level does not exceed those standards in the Noise Element for sensitive land uses (e.g., residences and schools).

3. Outdoor play areas are separated from abutting uses by a solid masonry wall not less than four feet in height.
4. The proposed child care center is compatible with on-site and abutting commercial uses, as determined by the Planning & Development Department.
5. The number of students does not exceed 30 and the total gross square footage of the facility including outdoor play areas does not exceed 5,000 square feet.

Review of Non-Residential Child Care facility pursuant to this Section is a ministerial action which is exempt from the California Environmental Quality Act, unless the approval is subject to Sec. 35-169.5. Notice of the application and pending decision on a Coastal Development Permit ~~approval~~ shall be provided ~~pursuant to~~ in compliance with Sec. 35-181.3, ~~except that the notice shall be mailed to all property owners within a three hundred (300) foot radius of the site.~~

SECTION 4:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144F.6.1 of Section 35-144F to read as follows:

1. Notice of the application and pending decision on a ~~the~~ Coastal Development Permit ~~approved pursuant to~~ in compliance with Sec. 35-144F.3.1 shall be ~~provided~~ given in ~~accordance~~ compliance with Sec. 35-181.3. ~~(Coastal Development and Land Use Permit Noticing). 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 and residents 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 Planning and Development.~~

SECTION 5:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144G.5.1 of Section 35-144G to read as follows:

1. Notice of the application and pending decision on ~~of~~ a Coastal Development Permit ~~approved pursuant to~~ in compliance with Sec. 35-144G.3.1 shall be ~~provided~~ given in ~~accordance~~ compliance with Sec. 35-181.3. ~~(Coastal Development Permit Noticing). In~~

~~addition, if the height of the antenna and associated support structure exceeds 50 feet, 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 with Planning and Development.~~

SECTION 6:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.4.9 of Section 35-169 to read as follows:

9. ~~Prior to approval of a Coastal Development Permit, the Planning and Development Department, or final decision-maker, shall establish a date for posting of public notice and commencement of the appeal period, pursuant to Sections 35-181. (Noticing) and 35-182. (Appeals). If no such date is identified, the required date of posting notice shall be the first working day following the date of approval of the Coastal Development Permit.~~

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

SECTION 7:

DIVISION 12, ADMINISTRATION, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-181 to read as follows:

Sec. 35-181. Noticing.

Sec. 35-181.1. Purpose and Intent.

The purpose of this Section is to set forth the minimum requirements for providing notice of a public hearing and other required noticing.

Sec. 35-181.2. Notice of Public Hearing and Decision-Maker Action.

1. **Minimum Requirements.** Except for decisions on Coastal Development Permits not subject to the requirements of Sec. 35-169.5 (Coastal Development Permits) and Land Use Permits, notice shall be given in compliance with Sections 65090 - 65096 of the Government Code for all projects that require a noticed public hearing or notice of decision-maker action (e.g., Amendments to Conditional Use Permits and Development Plans, Development Plans under the jurisdiction of the Director), notice shall be given

~~pursuant to Sections 65090—65096 of the California Government Code. The minimum requirements for such notice shall be as follows and the following minimum requirements:~~

- a. **Newspaper publication.** Notice shall be published in at least one newspaper of general circulation within the County; and circulated in the area affected by the project; at least 10 calendar days ~~prior to~~ before the scheduled public hearing or action by the decision-maker.
- b. **Mailed notice.** Notice shall be mailed at least 10 calendar days before the scheduled hearing or action by the decision-maker to:
 - ~~1) to~~ Any person who has filed a written request ~~therefore~~ for notice and has supplied the Planning and Development Department with self-addressed stamped envelopes;
 - ~~e. 2) Notice shall be mailed to~~ The applicant(s);
 - ~~d. 3) Notice shall be mailed to the~~ Owners of the ~~affected property~~ subject lot, if different from the applicant; and
 - ~~4) the~~ Owners of the property located within ~~300 feet~~ a 300-foot radius of the exterior boundaries of the ~~affected property subject lot, at least 10 calendar days prior to the hearing or action, using for this purpose the name and address of such owners as shown on the tax rolls of the County.~~ The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
 - ~~e. 5) Notice shall be mailed to~~ Residents located within ~~400 feet~~ a 100-foot radius of the exterior boundaries of the ~~affected property subject lot~~ at least ten (10) calendar days prior to the hearing or action.
 - ~~f. If the number of owners and residents to whom notice would be mailed or delivered pursuant to this Section is greater than 1,000, the County may instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least ten (10) calendar days prior to before the hearing.~~
 - ~~g. 6) Notice shall be mailed to~~ The Coastal Commission.
- c. **Optional notice to more than 1,000 owners of property.** If the number of owners and residents to whom notice would be mailed or delivered in compliance with this Section is greater than 1,000, the County may instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general

circulation within the County at least 10 calendar days before the scheduled public hearing or action by the decision-maker.

2. Contents of Notice. ~~The Notice shall contain the following information:~~ The contents of the notice shall be in compliance with Sec. 35-181.4.

- ~~a. The date of filing of the application and the name of the applicant;~~
- ~~b. The Planning and Development number assigned to the application;~~
- ~~c. A description of development, its proposed location, and a statement that the proposed development is within the Coastal Zone;~~
- ~~d. The date, time, and place the application will be heard upon by the local governing body or decision-maker;~~
- ~~e. The general procedure of the local government concerning the conduct of hearing and local actions and submission of public comments either in writing or orally prior to the local decision;~~
- ~~f. The procedure for Coastal Commission appeals, including any required appeals fees.~~

3. Continuances. ~~If a public hearing on a project is continued by the local government to a time which is neither (a) previously stated in the notice nor (b) announced at a hearing as being continued to a time certain, notice of the further hearings shall be provided in the same manner and within the same time limits as set forth above.~~

Sec. 35 181.3. Coastal Development Permit and Land Use Permit Noticing.

1. Minimum Requirements. Notice of a the application and pending decision on a Coastal Development Permit not subject to the special hearing requirements of Sec. 35-169.5 (Coastal Development Permits) and not following a previous discretionary action shall be given ~~seven (7) days prior to the decision on the permit in the following manner in~~ compliance with the following:

- a. By the Planning and Development Department.** Notice shall be given by the Planning and Development Department in compliance with the following:
 - 1) ~~By~~ The Planning and Development Department shall conspicuously posting notice at one ~~(1)~~ public place within the County's jurisdiction (e.g., at the Planning and Development Department).
 - 2) Said notice shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.

- 3) Said notice shall be posted or mailed no later than 15 days following the filing of a complete application with the Planning and Development Department, but in no case shall said notice be posted or mailed less than:
 - a) 10 days before the scheduled date of any review by the Board of Architectural Review, or;
 - b) 10 days following the decision on the permit.
 - 4) Said notice shall be required to be continuously posted for a minimum of 17 days from the date required by Subsection 3), above and shall remain posted for a minimum of 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit.
- b. **By the applicant.** ~~Requiring that the applicant conspicuously post notice of Coastal Development Permit, as provided by the Planning and Development Department, at a minimum of three (3) locations on and around the perimeter of the subject property with at least one notice posted in a location that can be viewed from the nearest public street. The applicant shall provide proof of posting notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department, prior to permit issuance, or such other date as may be required. Failure of the applicant to comply with this Section may result in revocation of the permit.~~ Notice of an application and pending decision on a Coastal Development Permit shall be given by the applicant in compliance with the following:
- 1) Mailed notice shall be provided to all residents located within a 100-foot radius of the exterior boundaries of the subject lot and the Coastal Commission.
 - 2) Mailed notice shall be provided to all owners of property located within a 300-foot radius of the exterior boundaries of the subject lot for the specific types of projects listed below. The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.
 - a) Development that requires Design Review in compliance with Sec. 35-184 (Board of Architectural Review);
 - b) A new dwelling containing two- or three-story elements or a second or third story addition to an existing dwelling;
 - c) A new accessory structure in excess of 120 square feet or an addition to an existing accessory structure that would exceed 120 square feet;

- d) A change in the allowed use of a structure;
 - e) Home occupations where clients come to the dwelling where the home occupation is conducted;
 - f) Residential second units, and additions thereto, as may be allowed in compliance with Sec. 35-181 (Residential Second Units.);
 - g) Large Family Day Care Homes, and additions thereto, as may be allowed in compliance with Sec. 35-143.2(Community Care Facilities);
 - h) Non-residential Child Care Centers, and additions thereto, as may be allowed in compliance with Sec. 35-143.3 (Community Care Facilities);
 - i) Commercial telecommunication facilities, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3.1 (Commercial Telecommunication Facilities); and
 - j) Noncommercial telecommunication facilities as may be allowed in compliance with Sec. 35-144G.3.1 (Noncommercial Telecommunication Facilities) where the height of the antenna and associated support structure exceeds 50 feet.
- 3) Mailed notice shall be provided to all residents located within a 300-foot radius of the exterior boundaries of the subject lot of an application for a commercial telecommunication facility, and additions thereto, as may be allowed in compliance with Sec. 35-144F.3.1 (Commercial Telecommunication Facilities)
- 4) For all other types of projects that require a Coastal Development Permit and are not included under Subsections 2), and 3), above, notice shall be provided in compliance with the following:
- a) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.
- 5) The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
- 6) The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.
- 7) Said notice shall be mailed and posted by the applicant no later than 15 days following the filing of a complete application to the Planning and Development

Department, but in no case shall said notice be mailed and posted less than 10 days before the scheduled date of any review by the Board of Architectural Review or following action by the Director to approve, conditionally approve, or deny the Coastal Development Permit.

- 8) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 7), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit.
- 9) The applicant shall provide proof of the mailing and posting of the required notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department no later 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit. Failure of the applicant to comply with this Section may result in denial and or revocation of the Coastal Development Permit.
- ~~e. Notice required pursuant to subsections a. and b., above, shall be posted by a date identified by the Planning and Development Department. If no such date is identified, the required date of posting shall be seven days prior to the date of decision on the Coastal Development Permit.~~
- ~~d. Notice required to be posted shall be continuously posted for a minimum of seventeen (17) calendar days from the date prescribed pursuant to subsection 1.b.1), above and shall remain posted for a minimum of ten (10) calendar days following the Planning and Development Department's decision on the permit.~~
- ~~e. Notice of the Planning and Development Department's intent to act on a Coastal Development Permit shall also be mailed to 1) all persons any person who has filed a written request and has supplied the Planning and Development Department with self addressed stamped envelopes, 2) all property owners and residents within 100 feet of the perimeter of the subject parcel, and 3) the Coastal Commission..~~

2. Minimum requirements for Coastal Development Permits and Land Use Permits following a previous discretionary action.

Notice of a pending decision on a Coastal Development Permit or Land Use Permit following a previous discretionary action and with the same project description shall be given in compliance with the following ~~manner~~:

a. **By the Planning and Development Department.** Notice shall be given by the Planning and Development Department in compliance with the following:

- 1) The Planning and Development Department shall conspicuously post notice at one (1) public place within the County's jurisdiction (e.g., at the Planning and Development Department).
- 2) Said notice shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.
- 3) Said notice shall be mailed and posted no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be mailed and posted less than 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.
- 4) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 3), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.

b. **By the applicant.** ~~The applicant shall conspicuously post notice of Coastal Development or Land Use Permit, as provided by the Planning and Development Department, at a minimum of three (3) locations on and around the perimeter of the subject property with at least one notice posted in a location that can be viewed from the nearest public street. The applicant shall provide proof of posting notice by filing an affidavit of noticing, and any other required documentation, with the Planning and Development Department, prior to permit issuance or such other date as may be required. Failure of the applicant to comply with this Section may result in revocation of the permit.~~

Notice of an application and pending decision on a Coastal Development Permit or Land Use Permit shall be given by the applicant in compliance with the following:

- 1) Mailed notice shall be provided to all residents located within a 100-foot radius of the exterior boundaries of the subject lot and the Coastal Commission.
- 2) Mailed notice shall be provided to all parties that received notice of the previous discretionary action.

- 3) The applicant shall also conspicuously post a notice at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest public street.
 - 4) The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
 - 5) The language and form of the notice shall be provided to the applicant by the Planning and Development. The contents of the notice shall be in compliance with Sec. 35-181.4.
 - 6) Said notice shall be mailed and posted by the applicant no later than 15 days following the filing of a complete application to the Planning and Development Department, but in no case shall said notice be mailed and posted less than 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.
 - 7) Notice required to be posted shall be continuously posted from the date prescribed pursuant to subsection 6), above until at least 10 calendar days following the decision of the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit.
 - 8) The applicant shall provide proof of the mailing and posting of the required notice by filing an affidavit of noticing and any other required documentation with the Planning and Development Department no later 10 days before the scheduled date of any review by the Board of Architectural Review or following an action by the Director to approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit. Failure of the applicant to comply with this Section may result in denial and or revocation of the Coastal Development Permit or Land Use Permit.
- ~~e. Notice required pursuant to subsections a. and b., above, shall be posted by a date identified by the Planning and Development Department. If no such date is identified, the required date of posting shall be the next working day following the date of the approval of the Permit.~~
- ~~d. Notice required to be posted shall be continuously posted for a minimum of ten (10) calendar days from the date prescribed pursuant to subsection 1.c., above.~~

- e. ~~Notice of the Planning and Development Department's approval of a Coastal Development or Land Use Permit shall also be mailed to: 1) all persons who have filed a written request and has supplied the Planning and Development Department with self-addressed stamped envelopes, 2) all parties that received notice of the previous discretionary action, including but not limited to property owners and residents within 100 feet of the perimeter of the subject parcel, and 3) the Coastal Commission.~~

3. Contents of Notice. ~~The notice shall contain the following information:~~ The contents of the notice shall be in compliance with Sec. 35-181.4.

- a. ~~The name of the applicant and date of filing of the application.~~
- b. ~~The Planning and Development Department application number.~~
- e. ~~A description of the project, its proposed location, and a statement that the development is within the Coastal Zone.~~
- d. ~~The date of decision on the permit and the date of expiration of the appeal period for the Coastal Development Permit.~~
- e. ~~The procedure for appeal of the Coastal Development Permit approval.~~
- f. ~~The procedure for submitting written or oral comments prior to the decision on Coastal Development Permits, excluding permits that follow a previous discretionary approval.~~
- g. ~~A statement that the public comment period commences upon the date that such notice is given and allows for submission of public comments prior to the decision on the Coastal Development Permit, excluding permits that follow a previous discretionary approval.~~

Sec. 35-181.4. Contents of Notice.

1. Notice for all projects. The following shall be included in all notices required to be provided in compliance with this Section:

- a. The date of filing of the application and the name of the applicant.
- b. The Planning and Development Department case number assigned to the application.
- c. The name of the Planning and Development staff person assigned to review the application and their postal mail address, electronic mail address, and telephone number.
- d. A description of the project, its location, and a statement that the project is located is within the Coastal Zone.

2. Notice for projects that require a public hearing or discretionary decision-maker action. The following shall be included in all notices for projects that require a public hearing or discretionary action by a decision-maker.

- a. All information required by Subsection 1., above.
- b. The place, date, and general time of the hearing at which the project will be heard by the decision-maker, if the action requires a public hearing. If the project does not require a public hearing, then only the date of pending action or decision of the decision-maker is required.
- c. A general description of the County procedures concerning the conduct of public hearings and local actions, including the submission of public comments either in writing or orally before the hearing or local decision, and requirements regarding the procedure to appeal the decision.
- d. The procedure for Coastal Commission appeals, including any required appeals fees.

3. Notice for projects that do not require a public hearing or or 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; and
 - 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 date of the pending decision on the Coastal Development Permit or Land Use Permit, and 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 of public comments on the requested Coastal Development Permit or Land Use Permit, excluding permits that follow a previous discretionary approval.

Sec. 35-181.45. Notice of Final Action for Coastal Development Permits Appealable to the Coastal Commission.)

For those developments that are appealable to the Coastal Commission (see definition of Appealable Development and Section 35-182.4, Appeals), notice of the approval of a Coastal Development Permit shall be given to the Coastal Commission and to any interested person who has requested such notice and has submitted a self addressed stamped envelope to the Planning and Development Department. Said notice shall be given within five (5) calendar days of the final action. Such notice shall include conditions of approval, findings, and the procedure for appeal of the County's action to the Coastal Commission.

Sec. 35 181.56. Failure to Receive Notice.

The failure of any person or entity to receive notice given ~~pursuant to~~ in compliance with this Section or ~~pursuant to~~ in compliance with State Law (Government Code Sections 65090-65096) of the California Government Code shall not invalidate the actions of the Planning and Development Department or the decision-maker.

SECTION 8:

Except as amended by this Ordinance, Divisions 7, 11 and 12 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 9:

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 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

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

ORDINANCE NO. 4595

AN ORDINANCE AMENDING ARTICLE II, OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 2, DEFINITIONS; DIVISION 6, PARKING REGULATIONS, DIVISION 7, GENERAL REGULATIONS, DIVISION 10, NONCONFORMING STRUCTURES AND USES, DIVISION 11, PERMIT PROCEDURES, AND DIVISION 12, ADMINISTRATION TO AMEND THE EXISTING DEFINITION OF DIRECTOR; REVISE THE EXISTING APPEAL PROCEDURES AND REGULATIONS, AND MAKE OTHER MINOR REVISIONS.

Case No. 05ORD-0000-000019 (Article II)

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 Section 35-58 to revise the existing definition of Director to read as follows:

DIRECTOR: The Director of the Santa Barbara County Planning and Development Department, including designees of the Director.

SECTION 2:

DIVISION 5, OVERLAY DISTRICTS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-96.3.5 of Section 35-96, View Corridor Overlay District, to read as follows:

5. ~~If the applicant is not satisfied with the action of the Board of Architectural Review, the applicant may within 10 days after the action of the Board of Architectural Review appeal in writing to the Planning Commission in accordance with the provisions of Sec. 35-182.2. (Appeals). The Planning Commission shall hold a public hearing on said appeal. If the appeal is granted by the Planning Commission, the Coastal Development Permit shall be issued provided all other requirements of this Article have been met.~~

The action of the Board of Architectural Review is final subject to appeal in compliance with Sec. 35-182.

SECTION 3:

DIVISION 6, PARKING REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-117.3 of Section 35-117, Driveways, to read as follows:

Sec. 35-117. Driveways.
Exhibit 6

3. Special Requirements: Upon recommendation of the ~~Transportation~~ Public Works Department or the Director or upon their own initiative when considering any project, the Planning Commission may place special requirements on an individual building site that will have the effect of reducing or increasing the number or width of driveways or prescribing their location on the building site when the Commission determines that such special requirements either reduce or do not create traffic hazards or street parking problems. Such special requirements shall be final subject to appeal ~~to the Board of Supervisors as provided~~ in compliance with Sec. 35-182 (Appeals).

SECTION 4:

DIVISION 7, GENERAL REGULATIONS , of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-119.9 of Section 35-119, Accessory Structures, to read as follows:

9. Accessory buildings and structures shall not be used for sleeping purposes and shall not be used as guest houses, artist studios, or cabañas, unless specifically permitted for such use. An accessory building or structure, or portion thereof, including guest houses, artist studios and cabanas, may be determined to constitute a dwelling by the Director when it is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of bathing facilities, closets, countertops or cupboards, dishwashers, exterior entrances, exterior staircases, garbage disposals, interior locking doors, separate addresses/mail box designations, separate balconies, decks, patios or yards, separate cable lines, phone lines or utility lines, separate carports, garages or parking areas (covered or uncovered), sleeping lofts, toilets, and sinks or bar sinks. Issuance of a building permit or other approval does not, of itself, establish that a building or portion thereof is not a dwelling unit. Said determination by the Director is considered a decision of the Director that may be appealed ~~pursuant to~~ in compliance with Sec. 35-489.2 (Appeals ~~to the Planning Commission~~). If, after appeal to the Planning Commission and, if required, the Board of Supervisors the determination that the accessory building or structure, or portion thereof constitutes a dwelling is maintained, then the dwelling may be subject to an enforcement action pursuant to Sec. 35-185 (Administration – Enforcement, Legal Procedures and Penalties) as appropriate.

SECTION 5:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-137.7.1 of Section 35-137, Temporary Uses, to read as follows:

1. Notwithstanding the provisions of Sec. 35-182.2 (~~Appeals to the Planning Commission~~), the approval, approval with conditions, or denial of a Coastal Development Permit for a temporary use listed in Sec. 35-137.3.2 may be appealed to the Zoning Administrator by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and the accompanying fee, must be filed with the Planning and Development Department within 10 calendar days following of the date of the decision of the Planning and Development Department. The Zoning Administrator shall hold a hearing on the appeal no later than 12 hours prior to the time the event is scheduled to commence and will render a decision as soon as practicable and in no case later than the time the temporary use is scheduled to commence. The decision of the Zoning Administrator shall be final. Notwithstanding the provisions of Sec. 35-181 (Noticing), mailed and published notice is not required to be given of said hearing, however, the date, time and location of the hearing shall be provided to the applicant, appellant, and any interested person who has filed a written request with the Planning and Development Department for notice of approved permits on the subject lot. If the lot for which the Coastal Development Permit for a temporary use is located within the Montecito Planning Area, the appeal shall be to the Chair of the Montecito Planning Commission, or designee, instead of the Zoning Administrator.
2. The approval, approval with conditions, or denial of a conditional use permit for a temporary use listed in Sec. 35-137.3.3 may be appealed ~~to the Board of Supervisors in accordance with the provisions of~~ in compliance with Sec. 35-182.3 (~~Appeals to the Board of Supervisors~~).

SECTION 6:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-142.9 of Section 35-142, Residential Second Units, to read as follows:

Sec. 35-142.9. Appeals.

The decision of the ~~Planning and Development Department~~ Director to approve or conditionally approve an application for a residential second unit is final subject to appeal to the

~~Planning Commission~~ in compliance with Sec. 35-489 (Appeals). ; The grounds for appeal of an approved or conditionally approved Coastal Development Permit are limited to the demonstration that the project for which the Coastal Development Permit was approved or conditionally approved is inconsistent with the applicable provisions and policies of this Article and the Coastal Land Use Plan. The decision of ~~Planning and Development~~ the Director 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 compliance with ~~DIVISION 12~~, Sec. 35-182 (Appeals). 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~~ in accordance compliance with the ~~procedures set forth in~~ ~~DIVISION 12~~, Section 182 (Appeals).

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

SECTION 7:

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144F.5.2 of Section 35-144F, Commercial Telecommunication Facilities, to read as follows:

2. Project Review.

- a. Five years after the issuance of the initial land use permit for the facility and no more frequently than every five years thereafter, the Director of Planning and Development may undertake inspection of the project and require the permittee to modify its facilities. Modifications may be required if, at the time of inspection it is determined that:

- 1) The project fails to achieve the intended purposes of the development standards listed in Section 35-144F.4 for reasons attributable to design or changes in environmental setting; or
- 2) More effective means of ensuring aesthetic compatibility with surrounding uses become available as a result of subsequent technological advances or changes in circumstance from the time the project was initially approved.

The Director's decision shall take into account the availability of new technology, capacity and coverage requirements of the permittee, and new facilities installed in the vicinity of the site. The scope of modification, if required, may include, but not be limited to a reduction in antenna size and height, collocation at an alternate permitted

- site, and similar site and architectural design changes. However, the permittee shall not be required to undertake changes that exceed ten percent of the total cost of facility construction. The decision of the Director as to modifications required under this section ~~shall be deemed final unless appealed pursuant to~~ is final subject to appeal in compliance with Sec. 35-182.2 (Appeals) ~~of this article.~~
- b. Every telecommunication facility shall demonstrate continued compliance with the NIER standard established by this section.
- 1) Every five years, or other time period as specified by the decision-maker as a condition of approval of the project, a report listing the effective radiated power radiated of the whole facility shall be submitted by the newest carrier operating at the facility to the Director of Planning and Development. If the effective radiated power has changed, calculations specifying NIER levels in inhabited areas shall be prepared and submitted with the report. NIER calculations shall also be prepared every time the adopted NIER standard changes by the newest carrier locating on the facility.
 - 2) If calculated levels in either of these cases exceed 80 percent of the NIER standard established by this section, the said carrier shall notify the Director and the Director shall hire a qualified electrical engineer licensed by the State of California to measure actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Director within five years of facility approval and every five years thereafter. The cost of the preparation of said reports shall be paid for by said carrier.
 - 3) In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.
 - 4) Failure to supply the required reports within 30 days following the date that written notice is mailed by the Director that such compliance report is due or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement of use by the Director. The decision of the Director to revoke a use permit or other entitlement of use ~~shall be deemed final unless appealed pursuant to~~ is final subject to appeal in compliance with Sec. 35-182.2 (Appeals) ~~of this article.~~

SECTION 8

DIVISION 7, GENERAL REGULATIONS, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35144F.5.3 of Section 35-144F, Commercial Telecommunication Facilities, to read as follows:

3. Collocation. Following initial approval of a telecommunication project, the permittee shall avail its facility to other prospective applicants and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following limits:
 - a. The party seeking the co-location shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs and permit processing.
 - b. The permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk.
 - c. Applicants shall make facilities and property available for collocation of telecommunication facilities on a non discriminatory and equitable basis. County retains the right to verify that the use of the facilities and property conforms with County policies regarding collocation and to impose additional permit conditions where necessary to assure these policies are being fulfilled.
 - d. In the event that the need for access to such facilities is demonstrated by other developers to the decision-maker, carriers shall make available to such other developers any excess space of their project facilities at an equitable cost.
 - e. In the event access to an existing facility is denied by the applicant, and at the request of the carrier requesting to collocate, the applicant shall submit to the Director of Planning and Development terms, including financial terms, under which other carriers in the area would be permitted to enter and use either the facilities or the property. In addition, the applicant shall submit a record of the typical financial terms used for similar facilities at other locations. The applicant shall submit the requested information to the Director of Planning and Development within 30 days of such request. If these terms are determined to be unacceptable to potential users of the facility and if agreement cannot be reached, the County shall reserve the right to impose additional conditions as described above by the Director to amend the permit. The imposition of such conditions shall be based on evidence of the charges and terms supplied by the applicant and the carrier requesting to collocate. The decision of the Director to impose additional conditions ~~shall be deemed final unless appealed pursuant to~~ is final subject to appeal in compliance with Sec. 35-489:2 (Appeals) of

~~this Article~~. The intent of this condition is to ensure the efficient and maximum use of collocated telecommunication facilities in the County.

SECTION 9:

DIVISION 7, GENERAL REGULATIONS, of Article IV of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144I.4 of Section 35-144I, Wildlife Species Rehabilitation, to read as follows:

4. Development standards: All wildlife species rehabilitation shall comply with the following development standards.
 - a. On any lot having a residential zone classification, no stable, barn or other enclosure for large animals shall be located on a lot having a gross area of less than 20,000 square feet. No portion of a stable, barn or other enclosure for large animals shall be located closer than:
 - 1) 40 feet to any dwelling located on another lot.
 - 2) 70 feet to any street centerline and 20 feet to any right-of-way line.
 - 3) 15 feet from rear property lines.
 - 4) 10 feet from side property lines.
 - 5) 10 feet from the property lines of an interior lot.
 - b. Odor and vector control: All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.
 - c. Storage and disposal of animal waste: All animal waste generated by the wildlife species rehabilitation facility shall be removed and stored or disposed of to prevent unsanitary conditions and breeding of flies.
 - d. The wildlife species rehabilitation shall be conducted in a manner that is not injurious to the health, safety, or welfare of the neighborhood and does not create offensive noise or odor as determined by the Director after advice from the County Public Health Department. If the Director determines that the wildlife species rehabilitation is injurious to the health, safety, or welfare of the neighborhood and/or does create offensive noise or odor, the Director may order the cessation of such wildlife species rehabilitation activities. This decision of the Director ~~may be appealed to the Planning Commission as provided in~~ is final subject to appeal in compliance with Sec. 35-489.2 (Appeals—

SECTION 10:

DIVISION 10, NONCONFORMING STRUCTURES AND USES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-161.7 of Section 35-161, Nonconforming Structures and Uses, to read as follows:

Sec. 35-161. Nonconforming Use of Land, Buildings and Structures.

7. Limited Exception Determinations for Certain Nonconforming Industrial Uses. Notwithstanding the foregoing, the County finds that the need may exist to improve the safety or reduce the environmental effects of certain nonconforming industrial uses by allowing minor changes that could result in minor enlargements, extensions, expansions or structural alterations (e.g., installation of emergency back-up generator for fire protection equipment, modifications to emergency shutdown system) to buildings or structures dedicated to such nonconforming uses, despite the fact that they do not conform to all current provisions of this Article. Therefore, an improvement comprising of minor enlargements, extensions, expansions or structural alterations of a building or structure dedicated to an industrial, public works, or energy-related nonconforming use may be allowed, subject to the following process and findings:

a. Process

- 1) No permits shall be issued for development, including grading, unless and until a Limited Exception Determination by the Planning Commission is first granted for the proposed improvement. Where no discretionary permit has previously been issued for the existing nonconforming industrial use, appropriate non-discretionary permits may be issued after a Limited Exception Determination has been granted. Where a discretionary permit has been previously issued, changes to that permit may be made pursuant to the provisions of this Article and the appropriate non-discretionary permits may be issued after a Limited Exception Determination has been granted. The action of the Planning Commission on the Limited Exception Determination is appealable to the Board of Supervisors pursuant to final subject to appeal in compliance with Sec. 35-182.3 (Appeals).
- 2) Unless otherwise specifically waived by the Planning and Development Director, ten (10) copies of the following information shall be submitted:
 - a) Description of project objectives;
 - b) Project description, including construction requirements (schedule, equipment, labor, parking, physical changes to existing facilities, and any

changes to facility operations or ancillary operations (truck trips, hazardous materials storage, etc.) as a result of the improvement;

- c) Map showing contiguous properties, including Assessor Parcel Numbers and property owners' names;
- d) Site plan to scale showing all existing and proposed facilities on the site. The new components, modifications to existing equipment, and any components to be removed shall be highlighted;
- e) Design specifications for any new components;
- f) Estimated expenditures for the improvement, including materials, labor, and equipment;
- g) Photographs of the site showing the area where the improvement is proposed;
- h) Identification of any increase in utility use or demand as a result of the improvement (water, electricity, natural gas);
- i) Written justification and such data, report(s), and documentation that demonstrate and verify the improvement's public health and safety benefit or environmental benefit. In all cases, the burden of proof shall be on the applicant to provide evidence verifying the public health and safety or environmental benefit.
- j) Any other supplemental data or information requested by the Planning and Development Department.

- 3) The Planning and Development Department shall distribute the material to the appropriate County Departments for a 30-day application completeness review.
- 4) Upon determination of application completeness, the Planning and Development Department shall conduct an assessment of the public health and safety and/or environmental benefits of the application and shall conduct environmental review. Information from such benefit assessment or the environmental review shall be included for use to support the Planning Commission's action on a Limited Exception Determination.

- b. Limited Exception Determination Findings. A Limited Exception Determination for an improvement that results in the minor enlargement, extension, expansion or structural alteration to a building or structure dedicated to an industrial, public works, or energy-related nonconforming use may be granted provided that the following findings are

- 1) The improvement has a demonstrable public health and safety, or environmental benefit (e.g., would reduce the risk of a hazardous material spill or reduce air emissions).
- 2) The improvement does not result in any new un-mitigated significant environmental impacts.
- 3) The improvement does not result in an increase in the overall intensity of use beyond the existing permitted use (e.g., output/throughput per day) or, for facilities where no permits exist, would not increase the overall intensity of use beyond the current operating limits.
- 4) The improvement does not extend or expand the existing developed industrial site boundary within a parcel.
- 5) The improvement does not result in an expansion or extension of life of the nonconforming use due to increased capacity of the structure dedicated to the nonconforming use, or from increased access to a resource, or from an opportunity to increase recovery of an existing resource. Any extension in the life of the nonconforming use affected by the improvement results solely from improved operational efficiency and is incidental to the primary purpose of improving public health and safety or providing an environmental benefit.
- 6) The improvement does not allow for processing of "new production" as defined Section 35-154.
- 7) If prior Limited Exception Determinations have been made for the same nonconforming use under this section, the successive Limited Exception Determinations cumulatively provide a public health and safety or environmental benefit.

SECTION 11:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.4.3 of Section 35-169, Coastal Development Permits, to read as follows:

3. The decision of the ~~Planning and Development Department on the approval or denial of Coastal Development Permits,~~ Director to approve, conditionally approve or deny a Coastal Development Permit not subject to the additional requirements of Section 35-169.5. (Special Processing for Coastal Development Permits within a Geographic Appeals Area or

for a Major Public Works Project) ~~shall be~~ is final, subject to appeal ~~as provided in~~
compliance with Sec. 35-182 (Appeals).

SECTION 12:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.5.3 of Section 35-169, Coastal Development Permits, to read as follows:

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~~ is final subject to appeal ~~to the Board of Supervisors as provided under~~ in compliance with 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.

SECTION 13:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.8 of Section 35-169, Coastal Development Permits to read as follows:

Sec. 35-169.8. Coastal Commission Changes to the County Action on Coastal Development Permit.

Where an appeal has been filed with the Coastal Commission ~~as provided for under~~ in compliance with Sec. 35 182.4. (Appeals) and the Coastal Commission has reversed or modified the action of the County on the Coastal Development Permit, the action of the Coastal Commission on the Coastal Development Permit is final. If the County has approved the Coastal Development Permit, any previously approved County project permits shall be automatically amended to conform to the Coastal Commission's approved Coastal Development Permit for the project or automatically terminated to conform to the Coastal Commission's disapproval of the Coastal Development Permit.

If the County has disapproved the Coastal Development Permit and the Coastal Commission approved the permit, the applicant must reapply to the County for approval of the ~~then required~~ but previously denied project permits, e.g., Development Plan, Conditional Use

Permit) in order for the County to impose appropriate conditions. However, the County's action on said re-applications must be consistent with the approved Coastal Development Permit. In the case where the Coastal Commission has imposed appropriate conditions on the Coastal Development Permit as determined by the Subdivision/Development Review Committee, the Director may waive this reapplication requirement.

SECTION 14:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.9 of Section 35-169, Coastal Development Permits to read as follows:

Sec. 35 169.9. Revocation.

Issuance of the Coastal Development Permit is contingent upon compliance with all conditions imposed as part of the project approval. If it is determined that development activity is occurring in violation of any or all such conditions, the Director may revoke this Permit and all authorization for development. Written notice of such Revocation shall be provided to the permittee. The decision of the Director to revoke the Coastal Development Permit may be appealed to the Planning Commission, as provided in compliance with Sec. 35-182.

SECTION 15:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-172.7.4 of Section 35-172, Conditional Use Permits to read as follows:

4. The action of the Planning Commission or Zoning Administrator ~~shall be~~ is final subject to appeal to the Board of Supervisors as provided under in compliance with Sec. 35-182.3 (Appeals). Under PRC Section 30603, the issuance of a Coastal Development Permit on a conditionally permitted use is appealable to the Coastal Commission as provided in Sec. 35-182.4 (Appeals).

SECTION 16:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-173.5.3 of Section 35-173, Variances, to read as follows:

3. The action of the Zoning Administrator's action is final; subject to appeal to the Board of Supervisors as provided in compliance with Sec. 35-182.3 (Appeals).

SECTION 17:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-174.4.4 of Section 35-174, Development Plans to read as follows:

4. If the Preliminary Development Plan is under the jurisdiction of the Director as provided in Sec. 35-174.2, a public hearing shall not be required. 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, ~~approve with modifications of development standards,~~ or deny the Preliminary Development Plan. The action of the Director's decision ~~shall be~~ is final; subject to appeal ~~to the Planning Commission as provided in compliance with~~ Section 35-182 (Appeals).

SECTION 18:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-174.4.5 of Section 35-174, Development Plans to read as follows:

5. The Planning Commission or Zoning Administrator shall consider Preliminary Development Plans within their jurisdiction at a noticed public hearing and approve, conditionally approve, approve with modification of development standards, or deny the plan. The action of the Planning Commission or Zoning Administrator ~~action shall be~~ is final; subject to appeal ~~to the Board of Supervisors as provided in compliance with~~ Sec. 35-182.3 (Appeals).

SECTION 19:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-174.6.3 of Section 35-174, Development Plans to read as follows:

3. When the Board of Supervisors, Planning Commission, Zoning Administrator, or Director has approved the Preliminary Development Plan, the Director shall review the Final Development Plan to determine that the plan is in substantial conformity with the Preliminary Development Plan, pursuant to the provisions set forth in this Section. The Director shall approve, conditionally approve, or deny the Final Development Plan, without a public hearing. Notice shall be given ~~ten~~(10) days prior to the Director's decision pursuant to Section 35-181. The

Director's action shall be final subject to appeal ~~to the Planning Commission as provided in~~
compliance with Section 35-182 (Appeals).

SECTION 20:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-176.4.3 of Section 35-176, Oil and Gas Exploration Plans to read as follows:

3. The Planning Commission shall then consider the Exploration Plan at a noticed public hearing and approve, conditionally approve, or disapprove the plan. The Planning Commission's action shall be final subject to appeal ~~to the Board of Supervisors as provided in~~ compliance with Sec. 35-182 (Appeals).

SECTION 21:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-176.9.3 of Section 35-176, Oil and Gas Exploration Plans to read as follows:

3. The Planning Commission shall then consider the Production Plan at a noticed public hearing and approve, conditionally approve, or disapprove the plan. The Planning Commission's action shall be final subject to appeal ~~to the Board of Supervisors as provided in~~ compliance with Sec. 35-182 (Appeals).

SECTION 22:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-177.6.4 of Section 35-177, Reclamation and Surface Mining Permits to read as follows:

4. The decisions of the Planning Commission with respect to reclamation plans and surface mining permits shall be final except that within ~~twelve (12)~~ days after the action of the Planning Commission, the Board of Supervisors, on its own initiation, may modify or reverse the action of the Planning Commission by order and any action of the Planning Commission is subject to appeal ~~to the Board of Supervisors as provided in~~ compliance with Sec. 35-182 (Appeals).

SECTION 23:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add Section 35-178.4.4 to Section 35-178, Land Use Permits to read as follows:

4. The decision of the Director to approve, conditionally approve, or deny a Land Use Permit shall be final; subject to appeal in compliance with Sec. 35-182 (Appeals).

SECTION 24:

DIVISION 11, PERMIT PROCEDURES, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-179.5.5 of Section 35-179, Modifications, to read as follows:

5. The decision of the Zoning Administrator's action to approve, conditionally approve, or deny a Modification is final; subject to appeal to the Board of Supervisors as provided in compliance with Sec. 35-182.3 (Appeals).

SECTION 25:

DIVISION 12, ADMINISTRATION, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to rescind the existing language of Section 35-182, Appeals, in its entirety and replace it with the following language to read as follows:

Sec. 35-182. Appeals.

Sec. 35-182.1. Purpose and Intent.

The purpose of this Section is to provide procedures for the acceptance and processing of appeals to the ~~Planning Commission and the~~ Board of Supervisors, Planning Commission and Zoning Administrator and to establish the criteria for those developments that may be appealed to the ~~State-California~~ Coastal Commission.

Sec. 35-182.2. ~~Appeals to the Planning Commission~~ General Appeal Procedures.

Except for those actions on Coastal Development Permits which ~~are appealable~~ may be appealed to the Coastal Commission as provided under Sec. 35-182.45, the decisions or determinations of the ~~the~~ Board of Architectural Review, Director, Planning Commission, or Zoning Administrator may be appealed as follows: ~~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~~

A. Who May Appeal.

~~An appeal may only be filed by the an applicant; or any an aggrieved person (see definition) or any two members of the Coastal Commission. An aggrieved person is defined as any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing or decision, informed the decision-maker of the nature of his concerns or who for good cause was unable to do either. The appeal and accompanying fee must be filed with the Planning and Development Department as follows:~~

B. Timing and Form of Appeal.

1. Appeals of decisions of the Board of Architectural Review, Director, Planning Commission or Zoning Administrator.

- a. ~~An appeal of a decision of the Board of Architectural Review, Director, Planning Commission or Zoning Administrator shall be filed within the ten (10) calendar days following the date of decision or determination that is the subject of the appeal except as otherwise provided in this Article for projects under the jurisdiction of the Director.~~
- b. ~~The appellant shall use the form provided by the Department in addition to any other supporting materials the appellant may wish to furnish in compliance with Sec. 35-182.2.C, explaining the reasons for the appeal. An appeal shall be filed with the Director, who shall process the appeal in compliance with this section, including scheduling the matter before the appropriate decision-maker. Within the ten (10) 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 (10) calendar days following the decision of the Planning and Development Department to deny such permit application.~~
- c. ~~Within the ten (10) calendar days following the date of final decision by the Board or Architectural Review (BAR). If final approval by the BAR 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 BAR appeal shall be processed concurrently with any appeal of the Coastal Development Permit. If a denial by the BAR is appealed, a separate hearing shall be held on the BAR appeal prior to the decision on the Coastal Development Permit. No permits shall be issued until all appeals have been heard and/or resolved.~~

2. Computation of time for appeal. The time within which the appeal shall be filed shall commence on the day following the day on which the decision was made or the determination was made. In the event the last day for filing an appeal falls on a non-business day of the County, the appeal may be timely filed on the next business day.

C. Requirements for Contents of an Appeal.

1. General requirements. The appellant shall state-specifically provide in the appeal how 1) all of the following:

- a. The identity of the appellant and her or his interest in the decision;
- b. The identity of the decision or determination appealed which may include the conditions of that decision or determination;
- c. A clear, complete, and concise statement of the reasons why the decision of the Planning and Development Department on a Coastal Development Permit, or the decision of the Director or the BAR, is not in accord or determination is inconsistent with the provisions and purposes of this Article or other applicable law;
- d. 2) If it is claimed that there was error or an abuse of discretion by the Planning and Development Department on the part of the Board of Architectural Review, Director, or BAR, Planning Commission, Zoning Administrator, or other officer or authorized employee, or that there was a lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration leading to the making of the decision or determination that is being appealed, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made, then these grounds shall be specifically stated.

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.C.1:

- a. Appeals Regarding a Previously Approved Discretionary Permit. If the approval of a Coastal Development Permit (not subject to Section 35-182.4) or Land Use Permit required by a previously approved discretionary permit is appealed, the appellant must shall identify:
 - (1) How the Coastal Development Permit or Land Use Permit is inconsistent with the previously approved discretionary permit, or
 - (2) How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Coastal Development Permit or Land Use Permit have not been unfulfilled or completed, or

(3) How the approval is inconsistent with Section 35-181 (Noticing).

b. Appeals of Final Decision of the Board of Architectural Review. A decision of the Board of Architectural Review to grant final approval may not be appealed to the Planning Commission unless the appellant can demonstrate that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval. If the Director determines that the appeal does not raise a substantial issue that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval, then the Director shall make that determination in writing, and the appeal shall not be processed. This decision of the Director is final and not subject to appeal.

D. Acceptance of Appeal. An appeal shall not be accepted by the Director unless it is complete and complies with all requirements of Sec. 35-182.2.C. This decision of the Director is final and not subject to appeal.

E. Appeal Fees. The appellant shall pay the required filing fee, as established from time to time by resolution of the Board of Supervisors, at the time of the filing of the appeal.

F. Effect of Filing of Appeal. The filing of the appeal shall have the effect of staying the issuance of any permit or approval provided for by the terms of this Article until such time as final action has occurred on the appeal.

G. Notice of Public Hearing Required. Notice of the time and place of the hearing shall be given in compliance with Sec. 35-181 (Noticing). Notice shall be mailed to the appellant and the applicant, if different than the appellant.

H. Special Processing Requirements. The following requirements apply to applications for Zoning Clearance and Coastal Development Permits that also require review by the Board of Architectural Review:

1. If a preliminary approval by the Board of Architectural Review is appealed, then the hearing on the appeal shall be held after the approval of the Zoning Clearance or Coastal Development Permit, but prior to the issuance of the Coastal Development Permit for such project.
2. If a preliminary approval by the Board of Architectural Review is appealed, and the approval of the Coastal Development Permit is appealed, then the appeal of the preliminary approval by the Board of Architectural Review shall be processed concurrently with the appeal of the Coastal Development Permit.
3. If a decision of the Board of Architectural Review to deny preliminary or final

approval is appealed, a hearing shall be held on the appeal of the decision of the Board

of Architectural Review prior to the decision on the Zoning Clearance or Coastal Development Permit.

Sec. 35 182.3. Appeals to the Zoning Administrator.

A. Decisions appealed to the Zoning Administrator. The following decisions of the Director may be appealed to the Zoning Administrator:

1. Any decision by the Director to approve, approve with conditions, or deny an application for a Land Use Permit for temporary use in compliance with Sec. 35-137 (Temporary Uses) may be appealed to the Zoning Administrator in compliance with Sec. 35-137.7.1.

B. Public Hearing Required. Notice of the time and place of the hearing shall be given in compliance with Sec. 35-137 (Temporary Uses). Notice shall be mailed to the appellant and the applicant, if different than the appellant.

C. Action on Appeal. The Zoning Administrator shall affirm, reverse, or modify the decision of the Director. The action of the Zoning Administrator is final and not subject to appeal.

Sec. 35-182.4. Appeals to the Planning Commission.

A. Decisions appealed to the Planning Commission. The following decisions may be appealed to the Planning Commission provided the appeal complies with the requirements of Sec. 35-182.2.C. and D.

1. Board of Architectural Review decisions. The following decisions of the Board of Architectural Review may be appealed to the Planning Commission:

- a. Any decision of the Board of Architectural Review to grant or deny preliminary approval.
- b. Any decision of the Board of Architectural Review to grant or deny final approval in compliance with Sec. 35-182.C.2.c.

2. Director decisions. The following decisions of the Director may be appealed to the Planning Commission:

- a. Any determination on the meaning or applicability of the provisions of this Article;
- b. Any determination that a discretionary permit application or information submitted with the application is incomplete as provided by Government Code Section 65943;
- c. Any decision of the Director to revoke an approved or issued Land Use Permit.
- d. Any decision of the Director to approve or deny an application for a Coastal Development Permit except for Coastal Development Permit approved in compliance with Section 35-137 (Temporary Uses).

Exhibit 6 Any decision of the Director to revoke an approved Zoning Clearance.

- f. Any decision of the Director to approve, approve with conditions, or deny an application for a Development Plan.
- g. Any decision of the Director to approve, approve with conditions, or deny any other discretionary application where the Director is the designated decision-maker.
- h. Any other action, decision or determination made by the Director as authorized by this Article where the Director is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.

3. Zoning Administrator decisions. The following decisions of the Zoning Administrator may be appealed to the Planning Commission, except that when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan, the decision of the Zoning Administrator may be appealed to the Board of Supervisors.

- a. Any decision of the Zoning Administrator to approve, approve with conditions, or deny an application for a Conditional Use Permit, Development Plan, Lot Line Adjustment, Modification, Variance, or other discretionary application where the Zoning Administrator is the designated decision-maker.
- b. Any other action, decision or determination made by the Zoning Administrator as authorized by this Article where the Zoning Administrator is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.

2B. Report to the Planning Commission. ~~Prior to the hearing on said appeal, t~~The Planning and Development Department shall transmit to the Planning Commission copies of the permit application including all maps and data and a statement from the Planning and Development Department setting forth the reasons for the decision by the Planning and Development Department, the Director, or the BAR Board of Architectural Review, Director or Zoning Administrator before the hearing on an appeal.

3C. Scope of Appeal Hearings. ~~The Planning Commission~~ hearings on the appeal shall be de novo and the.

D. Action on Appeal. The Planning Commission shall affirm, reverse, or modify the decision of Planning and Development Department, the Director, or the BAR at a regular public hearing the Board of Architectural Review, Director, or Zoning Administrator. Notice of the time and place of the public hearing shall be given in the manner prescribed in Sec. 35-181.2., however notice shall also be mailed to the appellant.

Sec. 35-182.35. Appeals to the Board of Supervisors.

~~1. The decisions of the Planning Commission or Zoning Administrator may be appealed to the Board of Supervisors by the applicant, an aggrieved person (see definition) or any two members of the Coastal Commission. The appeal, which shall be in writing, and the accompanying fee must be filed with the Clerk of the Board of Supervisors within ten (10) calendar days following the date of the Planning Commission's or Zoning Administrator's decision. For developments which are appealable to the Coastal Commission under Sec. 35-182.4.2., no appeal fee will be charged.~~

~~2. The appellant shall state specifically in the appeal wherein the decision of the Planning Commission or Zoning Administrator is not in accord with the provisions and purposes of this Article or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission or Zoning Administrator.~~

A. Decisions appealed to the Board. The following decisions of the Planning Commission may be appealed to the Board of Supervisors provided the appeal complies with the requirements of Sec. 35-182.2.C. and D.

1. Any final action on decisions that are appealed to the Planning Commission in compliance with Sec. 35-182.4. (Appeals to the Planning Commission).

2. Any final action on decisions of the Planning Commission to approve, approve with conditions, or deny an application for a Conditional Use Permit, Development Plan, Lot Line Adjustment, Tentative Map, Variance, or other discretionary application where the Planning Commission is the designated decision-maker.

3. Any other action, decision or determination made by the Planning Commission as authorized by this Article where the Planning Commission is the decision-maker except when specifically provided that such action, decision or determination is final and not subject to appeal.

4. Any decision of the Zoning Administrator to approve, approve with conditions, or deny an application for a Conditional Use Permit, Development Plan, Lot Line Adjustment, Modification, Variance, or other discretionary application where the Zoning Administrator is the designated decision-maker when the lot that is the subject of the decision of the Zoning Administrator is located within the Montecito Planning Area as designated in the Montecito Community Plan.

5. Any other action, decision or determination made by the Zoning Administrator as authorized by this Article where the Zoning Administrator is the decision-maker when the

lot that is the subject of the decision of the Zoning Administrator is located within the

Montecito Planning Area as designated in the Montecito Community Plan except when specifically provided that such action, decision or determination is final and not subject to appeal.

3B. Report to the Board of Supervisors. ~~Prior to the hearing on said appeal, the Clerk of the Board of Supervisors shall notify the Planning Commission or Zoning Administrator that an appeal has been filed whereon the Planning Commission or Zoning Administrator~~ The Department shall transmit to the Board of Supervisors copies of the permit application including all maps and data and a statement ~~of findings~~ setting forth the reasons for decision by the Planning Commission's or Zoning Administrator's decision before the hearing on an appeal.

4C. Scope of Appeal Hearings. The Board of Supervisors hearings on the appeal shall be de novo, ~~and~~

D. Action on Appeal. The Board of Supervisors shall affirm, reverse, or modify the decision of the Planning Commission Decision ~~or Zoning Administrator at a regular public hearing. Notice of the time and place of the public hearing shall be given in the manner prescribed in Sec. 35-181.2., however notice shall also be mailed to the appellant.~~

Sec. 35-182.45. Appeals to the Coastal Commission.

1. For developments which are subject to the appeals jurisdiction of the Coastal Commission under PRC Section 30603, an action by the Board of Supervisors may be appealed to the California Coastal Commission within ~~ten~~ (10) working days from the date of receipt by the Commission of the County's notice of final action by the applicant, an aggrieved person, or any two members of the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office. No appeal may be filed with the Coastal Commission until local appeals have been exhausted on the project permit.
2. 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.
 - a. Developments approved by the County between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as indicated on the official County appeals zone maps.
 - b. Developments approved by the County not included within paragraph (a) of this section located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, ~~Page 22 of 24~~ within 300 feet of the top of the seaward face of any

coastal bluff, as indicated on the official County appeals zone map or as determined by the State Lands Commission.

- c. Developments approved by the County that require a Conditional Use Permit.
- 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.

3. Grounds of Appeal.

- a. The grounds of appeal for any development appealable under 2.a., of this Section shall be limited to one or more of the following:
 - 1) The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.
 - 2) The development fails to protect public views from any road or from a recreation area to, and along, the coast.
 - 3) The development is not compatible with the established physical scale of the area.
 - 4) The development may significantly alter existing natural landforms.
 - 5) The development does not comply with shoreline erosion and geologic setback requirements.
 - 6) The development is not in conformity with the Local Coastal Program.
- b. The grounds of appeal for any development appealable under 2.b.c., and d. of this section shall be limited to whether development is in conformity with the Local Coastal Program.

SECTION 26:

Except as amended by this Ordinance, Divisions 2, 6, 7, 11 and 12 of Article II of Chapter 35 shall remain unchanged and shall continue in full force and effect.

SECTION 27:

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 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, before the

together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

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

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 in the Coastal Zone that are required by this Article. The intent of this section is to enable the Planning and Development Department to ensure that development proposals are in conformity with the provisions of this Article, and the Comprehensive Plan, including the Coastal Land Use Plan, and any applicable Community Plans and any conditions established by the County, and to provide public hearing opportunities for certain projects either located within a Geographic Appeals area or constituting a Major Public Works project 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 or that a Land Use Permit in compliance with Section 35-178 (Land Use Permits) is required. - 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 determined to be exempt from CEQA in compliance with Guidelines Section 15268.
 - b. The Planning and Development Department Director shall review the Coastal Development Permit application for conformance 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. Applications for development within a Geographic Appeals Area may be subject to the requirements of Section 35-169.11., in addition to the provisions of this Section.
2. ~~The application shall be deemed accepted unless the Planning and Development Department finds the application incomplete and notifies the applicant of incomplete working days of receipt of the application. However, in the case of Permit subject to the additional requirements of Section 35-169.5 (Special Development Permits within a Geographic Appeals Area or for a Major~~

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~~this time period shall instead be 30 calendar days after the Planning and Development Department's acceptance of the application for processing.~~

~~3bc. The decision of the Planning and Development Department on the approval or denial of Coastal Development Permits, not subject to the additional requirements of Section 35-169.5 (Special Processing for Coastal Development Permits within a Geographic Appeals Area or for a Major Public Works Project) shall be final, subject to appeal as provided in Section 35-182 (Appeals). The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).~~

4ed. A Coastal Development Permit approved in compliance with this Section shall not be issued and 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 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.

3) ~~until~~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.

~~5d. In the case of a development which requires a public hearing and final action by the Planning Commission or Zoning Administrator, or final action by the Director, any subsequently required Coastal Development Permit shall not be approved or issued within the 10 calendar days following the date that the Planning Commission, Zoning Administrator, or Director took final action, during which time an appeal of the action may be filed in accordance compliance with Section 35-182.3 (Appeals).~~

6. ~~In the case of a development which is heard by the Board of Supervisors on appeal, or which otherwise requires a public hearing and final action by the Board of Supervisors and is appealable to the Coastal Commission, the Coastal Development Permit shall not be approved or issued 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 may be filed in accordance with Section 35-182.4 (Appeals).~~

7e. 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 ~~would~~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.

8f. ~~In lands zoned MON~~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.

9g. Prior to approval or conditional approval of a Coastal Development Permit, ~~the Planning and Development Department, or final decision-maker,~~ shall establish a date for posting of public notice and commencement of the appeal period, pursuant to notice of the pending

decision shall be given in compliance with Section 35-181 (Noticing) and Section 35-182 (Appeals). If no such date is identified, the required date of posting notice shall be the first working day following the date of approval of the Coastal Development Permit.

10. ~~A Coastal Development Permit shall not be deemed effective prior to any applicable appeal period expiring, or if appealed, prior to final action by the decision maker on the appeal pursuant to Section 35-182 (Appeals). No entitlement for such use or development shall be granted prior to the effective date of the Coastal Development Permit.~~

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

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. 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: 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.
 - 1a. After accepting receipt of the Coastal Development Permit application for processing, the Planning and Development Department shall process the project through environmental review review the application in compliance with the requirements of the California Environmental Quality Act, unless determined to be exempt from CEQA in compliance with Guidelines Section 15268.
 - 2b. For residential structures on lots adjacent to the sea, the application shall be referred to the Board of Architectural Review subject to Design Review in compliance with Section 35-184 (Board of Architectural Review).
 - 3c. 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 either approve, conditionally approve, or deny the request.
 - d. Notice of the time and place of said the hearing shall be given in the manner prescribed 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 Zoning Administrator's action shall be of the decision-maker is final subject to appeal to the Board of Supervisors as provided under in compliance with Section 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 Section 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.

g. A Coastal Development Permit approved pursuant to in compliance with this Section shall not be considered to be in effect and shall not be issued and deemed effective until:

a1) all conditions and provisions which are required to be complied with prior to issuance of the permit are complied with; 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).

b2) the Until the applicant has signed the Coastal Development Permit; and,

c3) 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. 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.

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.

- ih. 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.
- iii. 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.
- 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 determined to be exempt from CEQA in compliance with Guidelines Section 15268.
- bd. 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.
- be. 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).
- ef. 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.
- 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 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).
 - a.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).
 - b2) 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 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.
 - 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.
- l. 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. 35-169.65 Findings Required for Approval of a Coastal Development Permit.

- 1. A Coastal Development Permit, ~~not subject to Section 35-169.5,~~ application that is subject to Section 35-169.4.1 above, shall be issued ~~approved or conditionally approved~~ only if the decision-maker first makes all of the following findings ~~are made~~:
 - a. ~~That the~~ The proposed development conforms to:

- 1) To the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and
 - 2) with- With the applicable provisions of this Article and/or the project falls within the limited exceptions allowed under Section 35-161.7 (Nonconforming Use of Land, Buildings and Structures).
- b. ~~That~~ The proposed development is located on a legally created lot.
- c. ~~That~~ 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 such any applicable zoning violation enforcement fees as established from time to time by the Board of Supervisors and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures under in compliance with Section 35-160 et seq Division 10 (Nonconforming Structures and Uses).
2. A Coastal Development Permit, application that is subject to Section 35-169.5, 4.2 above, shall ~~only be issued approved or conditionally approved only if the decision-maker first makes all of the following findings are made:~~
- a. Those findings specified in Section 35-169.65.1 above.
 - b. ~~That~~ The development does will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.
 - c. ~~That~~ The development is compatible with the established physical scale of the area.
 - d. ~~That~~ The development is in conformance 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. 35-169.76 Expiration.

1. A Coastal Development Permit shall remain valid only as long as all provisions of this Article and the Permit are met.
2. 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. 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.
 - 2b. 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.

3. c. Prior to the expiration of such two year period, the Director may extend such period one time for one additional year for good cause shown, provided that the findings for approval required pursuant to in compliance with Section 35-169.65, as applicable, can still be made.

3. 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. 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.

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. 35-169.11 Waiver of Public Hearing Requirement

1. ~~For the purposes of this Section, "minor development" 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. ~~The requirement for the public hearing for an application for a Coastal Development Permit, pursuant to Section 35-169.5, may be waived for a "minor development" (as defined in Section 35-169.11) by the Planning and Development Department only if both of the following occur:~~
- a. ~~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.~~
- b. ~~No written request for public hearing is received by the Planning and Development Department within 15 working days from the date of sending the notices pursuant to Section 35-169.11.2.a.~~

3. ~~The notice provided pursuant to Section 35-169.11.2.a 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 California Coastal Commission.~~
4. ~~A listing of pending Coastal Development Permit applications for which the public hearing may be waived shall be provided on the Zoning Administrator hearing agendas.~~

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 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) 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; or
 - b) In areas where the County's Local Coastal Program has not been certified by the Coastal Commission.
2. In the case of a Conditional Use Permit application where the project is subject to Development Plan requirements, 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 the an application for a Conditional Use Permit application, the Planning and Development Department shall process the application through environmental review 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 Planning Commission or Zoning Administrator decision-maker.

34. The Planning Commission or Zoning Administrator decision-maker will then consider the requested shall hold at least one public hearing on the requested Conditional Use Permit and Coastal Development Permit, if applicable, at a noticed public hearing 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 Section 35-181 (Noticing).

5. Notice of the time and place of said hearing shall be given in the manner prescribed in Section 35-181 (Noticing).

46. The action of the Planning Commission or Zoning Administrator decision-maker shall be final subject to appeal to the Board of Supervisors as provided under in compliance with Section 182.3 (Appeals).

a. Under In compliance with Public Resources Code Section 30603, the issuance of a Coastal Development Permit on a conditionally permitted use is appealable to the Coastal Commission as provided in compliance with Section 182.4 (Appeals).

57. 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.

68. 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 ~~only~~ be approved or conditionally approved only if the decision-maker first makes all of the following findings~~are made~~:

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 ~~Time Limit~~ 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. ~~At the time of approval of a Conditional Use Permit, a time limit shall be established within which a Coastal Development Permit must be obtained. The time limit shall be a reasonable time based on the size and nature of the proposed development or use. If no date is 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 action by the Board of Supervisors. The time limit may be extended by the decision maker with jurisdiction over the project pursuant to the provisions of Section 35-172.11, one time for good cause shown, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration date. If the time limit expires and no extension has been granted, then the Conditional Use Permit shall be considered null and void.~~
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.

24. Conditional Use Permit void. A Conditional Use Permit shall become null and void and be automatically revoked if the development and/or authorized use permitted under ~~allowed by~~ the Conditional Use Permit is discontinued for a period of more than ~~one year~~ 12 months. ~~Said~~ 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, including 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 ~~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 shall be final and not appealable ~~is final and not subject to appeal.~~
- Aa ~~Coastal Development Permit shall be required, pursuant to the Substantial Conformity Determination. Prior to the approval of such Coastal Development Permit, an additional finding must be made that the Coastal Development Permit substantially conforms to the previous Conditional Use Permit.~~ 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.

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.

...

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 ~~the~~ an application for a Preliminary Development Plan, the Planning and Development Department shall ~~process the plan through environmental review~~ the application in compliance with the requirements of the California Environmental Quality Act.
3. The Planning and Development Department shall refer the ~~Preliminary Development Plan application~~ to the Subdivision/Development Review Committee and the Board of Architectural Review for review and recommendation to the ~~Planning Commission, Zoning Administrator or the Director~~ decision-maker.
4. Notice, public hearing and decision.
 - a. Preliminary Development Plans under the jurisdiction of the Director. If the Preliminary Development Plan is under the jurisdiction of the Director as provided in Section 35-174.2, a public hearing shall not be required. 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) However, notice ~~Notice of the pending decision of the Director~~ shall be given at least 10 days ~~prior to before~~ the date of the Director's decision as ~~provided in~~ compliance with Section 35-181 (Noticing).

- 2) ~~The Director may approve, conditionally approve, approve with modifications of development standards, or deny the Preliminary Development Plan.~~
- 3) ~~The action of the Director's decision shall be~~ final; subject to appeal to the Planning Commission ~~as provided in compliance with~~ Section 35-182 (Appeals).

5b. Preliminary Development Plans under the jurisdiction of the Planning Commission or Zoning Administrator. A public hearing shall be required if ~~The the~~ Planning Commission or Zoning Administrator is the decision-maker on the Preliminary Development Plan.

- 1) ~~The decision-maker shall hold at least one consider Preliminary Development Plans within their jurisdiction at a noticed public hearing on the requested Preliminary Development Plan and approve, conditionally approve, approve with modifications of development standards, or deny the plan request.~~
 - 2) ~~The Planning Commission or Zoning Administrator action shall be of the decision-maker is~~ final; subject to appeal to the Board of Supervisors ~~as provided in compliance with~~ Section 35-182.3 (Appeals).
65. If the Preliminary Development Plan is processed in conjunction with a rezone application, the Planning Commission shall recommend approval, conditional approval, ~~approval with modification of the development standards, or denial of the Preliminary Development Plan, or Final Development Plan and Coastal Development Permit if applicable,~~ to the Board of Supervisors.
76. 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.

- fg. Any other supplementary ~~data~~ information requested by the Planning and Development Department.

Sec. 35-174.6 Processing of Final Development Plans.

- 1. ~~Upon~~ After receipt of the an application for a Final Development Plan, the Planning and Development Department shall process the plan through environmental review and may refer the plan to the Subdivision Committee, unless there is no change from the preliminary Development Plan review the application in compliance with the requirements of the California Environmental Quality Act.
- 2. ~~The Planning and Development Department shall refer the Final Development Plan shall be referred 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. ~~When the Board of Supervisors, Planning Commission, Zoning Administrator, or Director has approved the Preliminary Development Plan, the Director shall review the Final Development Plan to determine that the plan is in substantial conformity with the Preliminary Development Plan, pursuant to the provisions set forth in this Section. The Director shall approve, conditionally approve, or deny the Final Development Plan, without a public hearing. Notice shall be given 10 days prior to the Director's decision pursuant to Section 35-181. The Director's action shall be final subject to appeal to the Planning Commission as provided in Section 35-182 (Appeals). 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 hearing body decision-maker with jurisdiction (Planning Commission or Zoning Administrator) 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).

57. When a Preliminary Development Plan has not been filed as provided in Section 35-174.2.3, the Final Development Plan shall be processed ~~according to~~ 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.

1. ~~A Preliminary or Final Development Plan application shall only be approved or conditionally approved only if the decision-maker first makes all of the following findings, are made 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 or Revised Final Development Plan that follows an approved Preliminary Development Plan shall only be approved or conditionally approved only if the decision-maker first makes all of the following additional finding is made:

~~a. Such plan~~The Final Development Plan is in substantial conformity with any approved Preliminary or Revised Preliminary Development Plan ~~except when the Planning Commission, Zoning Administrator or Director considers a Final Development Plan for which there is not a previously approved Preliminary Development Plan. In this case, the Planning Commission, Zoning Administrator or Director may consider the Final Development Plan as both a Preliminary and Final 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 Time-Limit 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.

- 1a.** 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.
- 2b.** 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.
- 3c.** 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.
- 4d.** 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 shall be final, and not appealable is final and not subject to appeal.
- ~~A Coastal Development Permit shall be required, pursuant to the Substantial Conformity Determination. Prior to the approval of such Coastal Development Permit, an additional finding must be made that the Coastal Development Permit substantially conforms to the previous Development Plan.~~
 - 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.

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3. Revisions.

- a. A Revised Development Plan shall be required for changes to a Preliminary or Final Development Plan where the findings ~~set forth~~ cannot be made in compliance with Section 35-174.10.2 for Amendments cannot be made 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 ~~except as provided under Section 35-174.10.3.e below.~~
- ~~c. The Zoning Administrator may approve a Revision to a Development Plan approved pursuant to the Housing Element of the County of Santa Barbara as adopted in 1989 to reflect the 1993 Housing Element in place of affordable housing conditions imposed pursuant to the 1989 Housing Element. A Revision shall only be approved if the findings in Section 35-174.7 can be made. The Revision shall be confined to affordable housing requirements only. The provisions of this Section shall expire January 1, 1996. In order for a Revision to be approved under this provision, the Zoning Administrator shall find that the project has met all criteria listed below at the time of application submittal:~~
 - ~~1) The project is for residential use.~~
 - ~~2) The project has permit conditions requiring affordable housing based on the previous Housing Element adopted in 1989.~~
 - ~~3) a) The project is located in a Housing Market Area (HMA) where the moderate income need is currently being provided by the unrestricted housing market as identified in the Housing Element Implementation Guidelines and the affordable units have not yet received occupancy clearance or the developer has not yet paid in lieu fees at the time the revision is requested, depending on the original permit requirements; or,~~
 - ~~b) The project is located in a HMA where there is a need for all levels of affordable housing as identified in the Housing Element Implementation Guidelines and the developer has not yet recorded an affordable housing agreement with the County or has not yet paid in lieu fees at the time the revision is requested, depending on what the original permit conditions required.~~
 - ~~4) The project was not approved pursuant to a settlement agreement with the County.~~
 - ~~5) The developer is not requesting any incentives as part of the Revision request.~~

Sec. 35-178. Land Use Permits.

Sec. 35-178.1 Purpose and Intent.

~~This section establishes procedures and findings for the issuance of Land Use Permits in cases where the County approves certain discretionary permits for new development, but the California Coastal Commission issues the Coastal Development Permit because the development is (1) exempt from the provisions of this Article as provided in Section 35-169.2.1.i or, (2) located in areas where the County's Coastal Plan has not been certified by the Coastal Commission. In such cases, the Land Use Permit is the final permit required by the Planning and Development Department, following issuance of the Coastal Development Permit by the Coastal Commission. The intent of this section is to enable the Planning and Development Department to ensure that development proposals are in conformity with the provisions of this Article, the Coastal Land Use Plan, and applicable provisions of the Comprehensive plan.~~

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.

~~A Land Use Permit shall be required for all development in the Coastal Zone for which the California Coastal Commission issues the Coastal Development Permit because the development is (1) exempt from the provisions of this Article as provided in Section 35-169.2 or (2) located in areas where the County's Coastal Plan has not been certified by the Coastal Commission.~~

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-Until all necessary approvals, except building permits but including issuance of a Coastal Development Permit by the California Coastal Commission if required, have been obtained.
24. 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 the Planning and Development Department shall not issue a Land Use Permit within 10 calendar days of following the date that the Planning Commission, or Zoning Administrator, or Director took final action, during which time an appeal may be filed according to in compliance with Section 35-182 (Appeals).
35. 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 issued approved or conditionally approved while the proceedings are pending on such rezoning or amendment, unless the proposed buildings-uses or structures would will conform to the existing zoning of such property and existing provisions of this Article and also to 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.

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

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

1. That the-The proposed development conforms:
 - a. to-To the applicable policies and provisions of this Article, the Coastal Plan, and the Comprehensive Plan as applicable 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. That the-The proposed development is located on a legally created lot-as determined by the County Surveyor.
3. That the-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 such any applicable zoning violation enforcement fees and processing fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to

impose new requirements on legal nonconforming uses and structures ~~under Section 35-169 et seq.~~ 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.