



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: County Planning Commission
FROM: Noel Langle, Planner III
DATE: July 27, 2011
RE: Revised General Package Ordinance Amendments

On July 6, 2011, your Commission continued the public hearing on Case Nos. 11ORD-00000-00012 and 11ORD-00000-00014 to August 3, 2011 so that staff could work with members of the Planning Commission to develop revised ordinance language addressing concerns and questions raised by the Commissioners during the July 6th hearing in regards to:

- Exterior parking of motor vehicles and storage of materials, and
- Use of property for temporary events.

Staff met with Commissioners Blough and Brown regarding revisions to the language regarding exterior parking of motor vehicles and storage of materials, and with Commissioners Brooks and Cooney regarding the use of property for temporary events. As a result of these meetings staff revised the language regarding parking and storage of materials; these revisions are discussed in Section 2.0 of this memo. The discussion regarding the use of property for temporary events did not result in any proposed new language. However, Section 3.0 of the memo provides additional analysis that compares the existing regulations governing the use of property for temporary events with the proposed regulations discussed at the July 6, 2011 hearing.

The code sections referenced in Sections 2.0 and 3.0 of this memo refer to the language of the revised County LUDC ordinance (Attachment C) unless otherwise noted. Similar language is also included in the revised Article II ordinance (Attachment F). The complete text of the ordinance amendments including the revisions discussed below are attached to this memo as Attachment C and Attachment F.

1.0 RECOMMENDATION AND PROCEDURES

1.1 Case No. 11ORD-00000-00012. Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 11ORD-00000-00012 as shown in Attachment C based upon the ability to make the appropriate findings. Your Commission's motion should include the following:

1. Adopt the findings for approval, including CEQA findings, and recommend that the Board of Supervisors adopt the findings for approval of the proposed amendment (Attachment A of this memo);
2. Recommend that the Board of Supervisors determine that this ordinance is categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of

revised at the July 6th hearing, is shown below:

Fully enclosed. A structure with four walls that extend from the foundation floor to the roof of the structure, a roof that completely covers the structure, and doors that are kept closed and latched. A fully enclosed structure does not include a carport or other accessory structure that allows the contents therein to be observed from outside the structure other than when viewed through a window. Does not include awnings, fabric shelters, tents and similar structures of a nonpermanent type of construction.

However, it was pointed out that other designs could fulfill the same purpose of not allowing negative visual impacts by blocking views of the contents. Therefore, this definition is now proposed to be revised by changing the term from “fully enclosed structure” to “fully enclosed or fully screened structure” as shown below (text proposed to be deleted is struck-through; text proposed to be added is underlined). The relevant sections of the ordinance are also revised to reflect the new term “fully enclosed or fully screened structure.”

Fully enclosed or fully screened structure. A structure, constructed of permanent, solid materials, with ~~four walls that extend from the foundation floor to the roof of the structure,~~ a roof that completely covers the structure, and doors or gates that are kept closed and latched, and walls that extend from the foundation floor either to the roof of the structure or to a sufficient height such that any contents of the fully enclosed or fully screened structure are not visible when viewed from the outside other than when viewed through a window. A fully enclosed or fully screened structure does not include a carport or other accessory structure that allows the contents therein to be observed from outside the structure other than when viewed through a window. Does not include awnings, fabric shelters, tents and similar structures of a nonpermanent type of construction.

3.0 USE OF PROPERTY FOR SPECIAL EVENTS (Attachment C - SECTION 12 & 13; Attachment F - SECTIONS 3, 6, 7 & 8)

The ordinances discussed at the May 4th hearing included text amendments aimed at closing a loophole in the existing regulations pertaining to the temporary uses of property that allows property to be rented for use as a reception facility for weddings and similar gatherings without obtaining a Minor Conditional Use Permit (CUP) as would normally be required by the County Land Use and Development Code (CLUDC) and the Article II Coastal Zoning Ordinance. The My 4th ordinances sought to close this loophole by specifying that in order to qualify as a tenant, and thus be able to hold an event without having to obtain a Minor CUP, that the term “tenant” did not include transient occupancies where the rental of the lot is for a period of less than 30 days. The concern raised by your Commission was that the language as proposed would not accomplish the goal of eliminating this loophole.

As a result, staff revised the proposed amendment and presented revised language at the July 6, 2011 hearing. However, the Planning Commission directed that staff meet with members of the Commission to review the proposed language. Subsequently staff met with Commissioners Brooks and Cooney regarding the use of property for temporary events, but this discussion did not result in any proposed new language. Therefore, the proposed ordinance language reviewed below does not contain any language that is different than was reviewed at the July 6th hearing, and is only intended to provide additional analysis that compares the existing regulations governing the use of property for temporary events with the proposed regulations discussed at the July 6th hearing.

The complete text of the proposed amendment regarding the temporary uses of property (Subsection F.4 and F.9 of Section 35.42.260 (Temporary Uses and Trailers) is located on page 19 and page 20 of Exhibit 1 of Attachment C.

3.1 Reception facilities for weddings and similar gatherings.

Existing regulations. The allowed temporary use tables in the County LUDC provide that “Reception and similar gathering facilities (commercial)” are allowed in all zones subject to the approval of a Minor Conditional Use Permit (MCUP).

Subsection 35.42.260.F.9 (Reception facilities) describes this type of temporary use as “Reception facilities providing indoor or outdoor facilities that are accessory and incidental to the principal use of the property on a temporary, commercial basis for receptions, parties, weddings, or other similar gatherings that are not included in Subsection F.7 (Public assembly facilities) above.” Public assembly facilities include such facilities that are permitted as convention centers, meeting halls, theaters, etc.

In compliance with the existing regulations, if a property owner wishes to routinely offer their property on a commercial basis for temporary events such as receptions, parties, weddings, or other similar gatherings then they would apply for a Minor CUP. During the processing of the Minor CUP, appropriate conditions of approval that address such areas as number of events per year, hours of operation, noise limits, parking, fire and traffic safety, etc., would be developed to ensure that the use of the property for such a purpose is compatible with the surrounding neighborhood and does not conflict with the allowed land use of the area. A noticed, public hearing would be held on the application for the Minor CUP, and the action of the Zoning Administrator could be appealed to the Planning Commission; the action of the Planning Commission on the appeal could be further appealed to the Board of Supervisors.

Proposed regulations. The existing requirement for the Minor CUP is not proposed to be revised by this ordinance amendment. The amendment does, however, propose to amend the title and text (shown as underlined) of Subsection 35.42.260.F.9 (Reception facilities) to read as follows so that the title and description in Subsection 35.42.260.F.9 and the temporary use listed in the temporary use tables are all consistent:

9. **Reception and similar gathering facilities (commercial).** Reception and similar gathering facilities providing indoor or outdoor facilities that are accessory and incidental to the principal use of the property on a temporary, commercial basis for receptions, parties, weddings, or other similar gatherings that are not included in Subsection F.7 (Public assembly facilities) above.

No other changes to the regulations pertaining to reception and similar gathering facilities are proposed.

3.2 Charitable and other noncommercial functions.

Existing regulations. The allowed temporary use tables in the County LUDC provide that “charitable functions” are allowed in all zones subject to the permit requirements of Subsection 35.42.260.F.4 (Charitable and other noncommercial functions); Subsection 35.42.260.F.4 is shown below.

- 4. Charitable and other noncommercial functions.** The use of a lot for charitable and other noncommercial functions where the owner or tenant of the lot receives no remuneration, including fundraisers, parties, receptions, weddings and other similar gatherings, may be allowed in compliance with the following permit requirements and development standards.

Permit Requirement	Development Standards
Exempt	For a lot that is less than five gross acres in area: Use of the lot for charitable functions does not exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Exempt	For a lot that is five gross acres or more in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Coastal Development Permit or Land Use Permit	For a lot that is less than five gross acres in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Coastal Development Permit or Land Use Permit	For a lot that is five gross acres or more in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time exceeds 300.
Minor Conditional Use Permit	For a lot that is less than five gross acres in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time exceeds 300.

Charitable functions are currently defined as “An event or activity whose primary purpose is of a charitable or noncommercial nature.”

Presently the County LUDC does not contain any standards regulating the use of property for charitable and other noncommercial functions other than those shown in the table above that are used to determine what planning permit is required based on the lot size, number of events by calendar year, and number of attendees.

If a Land Use Permit (LUP) is required, then the standard mailed notice is provided to surrounding property owners, and the action on the LUP is subject to appeal to the Planning Commission and the Board of Supervisors.

If a Minor CUP is required, then similar to the process for reception and similar gathering facilities discussed above, a noticed, public hearing would be held on the application for the Minor CUP, and the action of the Zoning Administrator is subject to appeal to the Planning Commission and the Board of Supervisors.

However, if the event is exempt from a permit requirement, and is consistent with the restrictions included in the table, then notice is not provided to neighbors in advance of the event and there is no ability to appeal the holding of the event.

Proposed regulations. As discussed in the opening paragraph of SECTION 3.0, above, the purpose of the proposed revisions is to close a loophole in the existing regulations that allows property to be routinely rented for use as a reception facility for weddings and similar gatherings without obtaining a Minor CUP. The Department is proposing these revisions in response to complaints received by Department regarding what are primarily unregulated commercial uses of residentially and agriculturally zoned property.

The regulations governing the use of property for charitable and noncommercial events are proposed to be revised as discussed below.

- Subsection F.4 (Charitable and other noncommercial functions) is revised to clarify that in order for a temporary event to qualify as a charitable or other noncommercial function, neither the owner nor the tenant may receive any remuneration associated with the holding the event. Additionally the language is revised to address the use of a portion of the lot and any structures located on the lot.
- 4. Charitable and other noncommercial functions.** The use of a lot or portion thereof, including any structures located on the lot, for charitable and other noncommercial functions where ~~the~~ no owner or tenant of the lot on which the function occurs receives ~~no~~ any remuneration associated with such use, ~~including fundraisers, parties, receptions weddings and other similar gatherings,~~ may be allowed in compliance with the following permit requirements and development standards.
- The table within Subsection F.4 is revised as shown below to clarify that the standards apply to all functions regulated under this subsection and not just charitable functions.

Permit Requirement	Development Standards
Exempt	For a lot that is less than five gross acres in area. Use of the lot for charitable <u>such</u> functions does not exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Exempt	For a lot that is five gross acres or more in area. Use of the lot for charitable <u>such</u> functions may exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Coastal Development Permit or Land Use Permit	For a lot that is less than five gross acres in area. Use of the lot for charitable <u>such</u> functions may exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.

Coastal Development Permit or Land Use Permit	For a lot that is five gross acres or more in area. Use of the lot for charitable <u>such</u> functions may exceed five times within the same calendar year. The number of persons present at the event at any one time exceeds 300.
Minor Conditional Use Permit	For a lot that is less than five gross acres in area. Use of the lot for charitable <u>such</u> functions may exceed five times within the same calendar year. The number of persons present at the event at any one time exceeds 300.

- A new Subsection F.4 a is added that specifies that if any tenant rents the lot or any portion thereof for less than 30 days for the purpose of holding a noncommercial function, then the temporary event is required to be permitted as a “Reception and Similar Gathering Facility (commercial)” which would require the approval of a Minor CUP. This will mean that any temporary event where the rental is for less than a 30 day period will not be able to qualify for an exemption from planning permits as a noncommercial function under this Subsection.
 - a. If any tenant rents the lot or portion thereof, including any structures located on the lot, for a period of less than 30 days for a noncommercial function, then an approved applicable permit for a Reception and Similar Gathering Facility (commercial) identified in Tables 4-10 through 4-15, above, and 35.42.260.F.9 (Reception and similar gathering facilities (commercial)) is required in compliance with this Section 35.42.260 and other applicable development standards of this Development Code.

- A new Subsection F.4 b is added exempts noncommercial functions from the permit requirements and development standards of Subsection F.4 where the number of persons present at the function at any one time does not exceed 25. The intent of this revision is to exempt very small scale activities that may occur on a more frequent basis than is normally provided for. For example, for lots that are less than five acres in size, the number of functions is normally limited to five per calendar year; this exemption could be used in situations where a homeowner hosts small dinner gatherings on a monthly basis.
 - b. The permit requirements and development standards of this Subsection F.4. do not apply to noncommercial functions where the number of persons present at the function at any one time does not exceed 25.

- The existing definition of Charitable Function in the County LUDC is revised as shown below; this revised definition restricts charitable functions to those that are held by organizations that are registered with the federal Internal Revenue Service as a Internal Revenue Code 501(c)(3) nonprofit organization. Other charitable functions that are not held by “501(c)(3) nonprofit organizations” may still be allowed if the Director, as provided by County LUDC Section 35.42.260.B.3.a, determines that other temporary uses may be exempt from permit requirements if the temporary use is similar to those identified as being exempt from permit requirements, and the temporary use does not have the potential to result in an adverse effect on surrounding properties.

Charitable Function. An event or activity ~~whose primary purpose is of a charitable or noncommercial nature~~ that is held by a charitable nonprofit organization that is registered with the federal Internal Revenue Service as a Internal Revenue Code 501(c)(3) nonprofit organization.

4.0 SURFACE MINING/RECLAMATION PLAN CUP CLEARANCE PROCESS (Attachment C - SECTION 26)

One of the amendments discussed at the May 4th hearing involved changing the permit requirement following the approval of a Conditional Use Permit for surface mining and reclamation from a Land Use Permit to a Zoning Clearance to be consistent with amendments previously adopted by the Board of Supervisors in May 2007 for all other Conditional Use Permits (see page 15 of the May 4, 2011 staff report). Staff now proposes to add additional language (shown as with double-underlines and highlighted below) to Subsection E.2 of the amendment language discussed on May 4th to clarify that the shift from a Land Use Permit to a Zoning Clearance also applies to existing Conditional Use Permits where the conditions of approval state that a Land Use Permit is required:

E. Permit and Reclamation Plan requirements. The following requirements apply to all surface mining operations in all zones.

- 1. Conditional Use Permit and Reclamation Plan required prior to commencement of surface mining operations.** A Conditional Use Permit or Minor Conditional Use Permit in compliance with Section 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits), a Reclamation Plan prepared in compliance with SMARA and this Section, and a lead agency approved financial assurance shall be required prior to the commencement of any surface mining operations, unless the operations are exempted by the provisions of SMARA, the State Regulations, or Subsection D.1 (Exemptions) above.

- 2. Coastal Development Permit or Land Use Permit Zoning Clearance required prior to commencement of development authorized by a Conditional Use Permit and Reclamation Plan.** ~~Except as provided in Subsection E.3 (Zoning Clearance required) below for Agricultural Soil Export Mining, a~~ A surface mine operator shall obtain a ~~Coastal Development Permit in compliance with Section 35.82.050 (Coastal Development Permits) or a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits)~~ Zoning Clearance in compliance with Section 35.82.210 (Zoning Clearances), as applicable, prior to the initiation of mining and reclamation activities approved in compliance with a Conditional Use Permit and Reclamation Plan. ~~Except for Agricultural Soil Export Mining, the~~ The surface mine operator shall also obtain a separate ~~Coastal Development Permit or Land Use Permit~~ Zoning Clearance to implement a Reclamation Plan.
 - a. This requirement to obtain a Zoning Clearance in compliance with Section 35.82.210 (Zoning Clearance) shall take precedence over existing permit conditions requiring the issuance of a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits) prior to the initiation of mining and reclamation activities approved in compliance with a Conditional Use Permit and Reclamation Plan as of [effective date of ordinance].**