DIVISION 10.

PERMIT PROCEDURES.

Sec. 35-314. Land Use Permits.

Sec. 35-314.1. Purpose and Intent.  
This Section establishes procedures and findings for the issuance of, and effective time periods for, Land Use Permits which are required for all uses and developments permitted under the regulations of this Article. The intent of this Section is to ensure that development proposals conform to the provisions of this Article, the Comprehensive Plan, and any conditions set by the County.  (Amended by Ord. 4228, 6/18/96)

Sec. 35-314.2. Applicability.  
1. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, rebuilding, or demolishing of any building, structure, or improvement within the County wherein permits are required under the provisions of this Article, a Land Use Permit shall be issued by the Planning and Development Department unless other regulations of this Article specifically indicate such permit is not required or the activity is exempt from the issuance of a Land Use Permit, as provided herein. Activities which are exempt from the issuance of a Land Use Permit shall comply with 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 Land Use Permit except as provided in Policy OS-O-5 (and development standards 5.1-3 of the Orcutt Community Plan, the MT-GOL (Mountainous-Goleta) Zone District, ESH-GOL (Environmentally Sensitive Habitat) Overlay District and RC-GOL (Riparian Corridor-Goleta) Overlay District:  (Amended by Ord. 4001, 2/21/92; Ord. 4111, 7/20/93; Ord. 4228, 6/18/96; Ord. 4274, 7/22/97; Ord. 4379, 11/16/99)

a. Repair and maintenance activities that do not result in addition to, or enlargement or expansion of, the object of such repair or maintenance activities

b. Fences and walls of six (6) feet or less and gateposts of eight (8) feet or less in height located within front yard setback areas. Fences and walls of eight (8) feet or less in height and gateposts of ten (10) feet or less in height located outside of
front yard setback areas and not closer than twenty (20) feet from the right-of-way line of any street.  *(Amended by Ord. 4001, 2/21/92)*

c. Installation of irrigation lines not otherwise requiring a Grading Permit pursuant to Chapter 14 of the Santa Barbara County Code.  *(Amended by Ord. 4228, 6/18/96)*

d. Public Works facilities constructed by the County of Santa Barbara.

e. Buildings or structures having an aggregate value of less than $2,000.00 as determined by the Planning and Development Department.  *(Amended by Ord. 4001, 2/21/92; Ord. 4228, 6/18/96)*

f. The addition of solar collection systems to the roofs of existing buildings or structures.

g. Poles, wires, underground gas pipelines less than twelve (12) inches in diameter (see Sec. 35-290., Pipelines), and similar installations erected, installed, or maintained by public agencies or public service or utility districts or companies. However, such structures shall be subject to height limitations when located in the F, Airport Approach Area Overlay District.  *(Amended by Ord. 3798, 01/09/90; Ord. 4228, 6/18/96)*

h. Decks, platforms, walks, and driveways which do not require a Grading Permit pursuant to Chapter 14 of the County Code and are not over thirty (30) inches above finish grade and not over any basement or story below.  *(Amended by Ord. 3798, 01/09/90; Ord. 4001, 2/21/92)*

i. Skylights, windows, and doors.  *(Amended by Ord. 4001, 2/21/92)*

j. Window awnings that are supported by an exterior wall and project no more than 54 inches from such exterior wall.  *(Amended by Ord. 4001, 2/21/92)*

k. Spas, hot tubs, and fish ponds that do not exceed 120 sq. ft. in total development, including related equipment, or does not contain more than 2,000 gallons of water.  *(Amended by Ord. 4001, 2/21/92; Ord. 4228, 6/18/96)*

l. One-story detached accessory buildings used as tool and storage sheds, playhouses, gazebos, pergolas and similar uses, provided such buildings do not exceed twelve (12) feet in height, the roof area does not exceed 120 square feet, and no plumbing or electrical work is required.  *(Amended by Ord. 4001, 2/21/92)*

m. Retaining walls (retaining earth only) which are not over 4 feet in height measured from the bottom of the footing to the top of the wall and do not require a Grading Permit pursuant to Chapter 14 of the County Code.  *(Amended by Ord. 4001, 2/21/92)*
n. Structures and related development required for temporary motion picture, television and theater stage sets and scenery, and still photographic sessions, provided that such development does not require alterations of the natural environment such as removal of vegetation, grading or earthwork. *(Amended by Ord. 4001, 2/21/92)*

o. In the RR, A-I, and A-II districts, agricultural accessory structures that are roofed and supported by posts or poles, do not exceed 500 square feet of roof area, are unenclosed on all sides, and have no plumbing or electrical facilities. *(Amended Ord. 4001, 2/21/92)*

p. Interior alternations that do not result in an increase in the gross floor area within the structure, do not increase the required number of parking spaces, or do not result in a change in the permitted use of the structure. *(Amended Ord. 4001, 2/21/92; Ord. 4228, 6/18/96)*

q. Propane tanks located in residential or agricultural zone districts. *(Added by Ord. 4063, 8/18/93)*

r. Testing and installation of a water well to serve one domestic, commercial, industrial or recreational connection. *(Added by Ord. 4085, 12/15/92)*

s. Water wells or water systems for agricultural purposes, except in zone districts requiring a Development Plan. *(Added by Ord. 4085, 12/15/92)*

t. Seismic retrofits to existing structures. Seismic retrofits are limited to the addition of foundation bolts, hold-downs, lateral bracing at cripple walls and other structural elements required by County Ordinance 4062. The seismic retrofits shall not increase the gross square footage of the structure, involve exterior alterations to the structure, alter the footprint of the structure, nor increase the height of the structure. *(Added by Ord. 4228, 6/18/96)*

u. The replacement or restoration of conforming buildings or structures damaged or destroyed by a disaster, as determined by the Planning and Development Department. The replaced or restored structure shall conform to all applicable zone district requirements (including permitted uses), shall be for the same use, shall be in the same general footprint location, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than ten (10) percent or 250 square feet, which ever is less. For the purposes of this Section only, bulk shall be defined as total interior cubic volume as measured from the exterior surface of the structure. If
the Planning and Development Department determines that the exterior design or specifications are proposed to be changed, the restored or replaced structure shall be subject to the provisions of Section 35-329., Board of Architectural Review, if otherwise subject to such review (e.g. the site is within the D-Design Control Overlay District). (Added by Ord. 4228, 6/18/96)

v. Ground or roof mounted receive only satellite dish or wireless television antenna one (1) meter in diameter or less that is used solely by the occupants of the property on which the antenna is located for the non-commercial, private reception of communication signals (e.g., television). (Added by Ord. 4264, 6/24/97)

w. Demolition of structures less than 50 years old or structures that are not historically significant as determined by the Historic Landmark Advisory Commission or Planning and Development. (Added by Ord. 4379, 11/16/99)

2. Where a Development Plan is not required by the applicable zone district regulations, a Land Use Permit shall not be required for the following grading activities except as provided in Policy GEO-O-3 of the Orcutt Community Plan, the MT-GOL (Mountainous-Goleta) Zone District, ESH-GOL (Environmentally Sensitive Habitat-Goleta) Overlay District, and the RC-GOL (Riparian Corridor-Goleta) Overlay District: (Amended by Ord. 4111, 7/20/93; Ord. 4228, 6/18/96; Ord 4274, 7/22/97)

a. Grading for farming and agricultural operations pursuant to Chapter 14 of the Santa Barbara County Code. (Amended by Ord. 4228, 6/18/96)

b. Other types of grading which do not require a permit under Chapter 14 of the Santa Barbara County Code.

c. Grading in State designated oil fields involving less than fifteen hundred (1,500) cubic yards of cut or fill on slopes of less than thirty (30) percent. Provided, however, that a land use permit shall be required for grading which: (Amended by Ord. 4228, 6/18/96)

1) Has the potential to change or adversely affect an intermittent or perennial stream or regional watercourse.

2) Would adversely impact paleontological, archaeological or uniquely important cultural resources.

3) Could adversely affect exceptional wildlife values.
4) Is proposed to be located within one mile and in the visible area of a scenic highway, public park, or area designated as recreational or open space on the Comprehensive Plan Land Use Maps.

5) Necessitates the removal of three or more trees. These trees must be greater than seventeen inches in circumference measured two feet above the ground.

The requirements of this Section shall not be construed to alter the provisions and regulations of Chapter 14 of the County Code. (Added by Ord. 3530, 09/05/85; Amended by Ord. 4228, 6/18/96)

3. For buildings and structures, not including agricultural reservoirs, that do not otherwise require a discretionary permit and are 20,000 or more square feet in size or are attached or detached additions that when together with existing buildings and structures total 20,000 square feet or more, a Development Plan as provided in Sec. 35-317. (Development Plans) shall be required prior to the issuance of any Land Use Permit. (Amended by Ord. 4319, 6/23/98)

4. A Land Use Permit shall be required for the following facilities:

a. Unless otherwise provided for in specific districts' regulations, reservoirs not exempt under Section 35-314.2.2.a that exceed 1,000 square feet and are less than 50,000 square feet of total development; (Amended by Ord. 4228, 6/18/96)

b. Water production, storage, and treatment systems and distribution lines, including but not limited to, shared water systems, community water systems, water treatment plants, water package plants and appurtenant fixtures and structures associated with water wells and water storage tanks, proposed to serve less than five domestic, commercial, industrial or recreational connections; except that in the RR, R-1/E-1, R-2, and EX-1 zone districts, a Minor CUP shall be required.

c. Water diversion projects.

d. Private flood control projects of less than 20,000 square feet of total development area.

Sec. 35-314.3. Contents of Application.

1. As many copies of a Land Use Permit application as may be required by the Planning and Development Department shall be submitted to the Planning and Development Department. Said application shall include the following:

a. A site plan which shall indicate clearly and with full dimensions the following information, if applicable:
LAND USE PERMITS

1) North arrow and scale of drawing.
2) Site address.
3) Lot dimensions and boundaries.
4) All proposed and existing buildings and structures and their locations, size, height and use.
5) Distance from proposed structure(s) to property lines, centerline of the street or alley, and existing structures.
6) Walls and fences: location, height, and materials.
7) Names and widths of streets (right-of-way) abutting the site.
8) Off-street parking: location, dimensions of parking area, number of spaces, arrangement of spaces, and internal circulation pattern.
9) Access: pedestrian, vehicular, service; and delineations of all points of ingress and egress.
10) Signs: location, size, height, and method of illumination.
11) Loading spaces; location, dimensions, and number of spaces.
12) Lighting: general nature, locations, and hooding devices.
13) Proposed street dedications and improvements.
14) All applicable easements.
15) Landscaping, if required.
16) Method of sewage disposal. Show position of septic tanks and leach lines, if applicable.
17) For commercial and industrial projects indicate where applicable:
   a) Number of motel or hotel units.
   b) Seating capacity or square footage devoted to patrons.
   c) Total number of employees.

b. Source of water supply.

c. Any other information that the Planning and Development Department may require.

Sec. 35-314.4. Processing. (Amended by Ord. 4228, 6/18/96)

1. The Planning and Development Department shall review the Land Use Permit application for conformance with the Comprehensive Plan, this Article, and other applicable regulations, and shall decide to approve or deny the Land Use Permit. A Land Use Permit shall not be approved or issued by the Planning and Development Department until all necessary prior approvals have been obtained.
2. The decision of the Planning and Development Department on the approval or denial of a Land Use Permit shall be final, with Land Use Permits not following a previous discretionary approval being subject to appeal to the Planning Commission as provided in Sec. 35-327. (Appeals). *(Amended by City Ord. 07-06, 6/4/2007)*

3. 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, the Planning and Development Department shall not approve or issue any subsequently required Land Use Permit within the ten (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 according to Section 35-327. (Appeals).

4. If a Land Use Permit is requested for property subject to a Resolution of the Board of Supervisors initiating a rezoning or an amendment to this Article, a Land Use Permit shall not be approved or issued while the proceedings are pending on such rezoning or amendment, unless the proposed uses, buildings or structures would 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 Resolution.

5. Prior to approval of a Land Use Permit that does not follow a previous discretionary approval, the Planning and Environmental Services Department, or final decision-maker, shall establish a date for posting of public notice and commencement of the appeal period, pursuant to Sections 35-326. (Noticing) and 35-327. (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 Land Use Permit. For Land Use Permits following a previous discretionary approval, staff from Planning and Environmental Services shall review final plans, the final project description, and fulfillment of the project’s conditions of approval for conformance with the previously granted approvals, and shall issue the Land Use Permit upon verification of such conformity and compliance. There is no noticing requirement for approval of these post-discretionary Land Use Permits, nor is there an appeal of the Land Use Permit. *(Amended by City Ord. 07-06, 6/4/2007)*

6. A Land Use Permit that does not follow a previous discretionary approval shall not be deemed effective prior to any appeal period expiring or, if appealed, prior to final action by the City on the appeal, pursuant to Section 35-327. (Appeals). No entitlement for such use or development shall be granted prior to the effective date of the Land Use Permit. For Land Use Permits following a previous discretionary approval, staff from Planning and Environmental Services shall review final plans, the final project description, and fulfillment of the project’s conditions of approval for conformance with the previously granted approvals, and shall issue the Land Use Permit upon verification of such conformity and compliance. There is no noticing requirement for approval of these post-discretionary Land Use Permits, nor is there an appeal of the Land Use Permit. *(Amended by City Ord. 07-06, 6/4/2007)*

**Sec. 35-314.5. Findings Required for Approval.**

A Land Use Permit shall be issued only if all of the following findings are made:

1. That the proposed development conforms to the applicable policies of 1) the Comprehensive Plan and 2) with the applicable provisions of this Article and/or falls within the limited exception allowed under Section 35-306.7. *(Amended by Ord. 4228, 6/18/96)*

2. That the proposed development is located on a legally created lot. *(Amended by Ord. 4228, 6/18/96)*
3. 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 zoning violation 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 non-conforming uses and structures under § 35-305 et seq.

**Sec. 35-314.6. Expiration.** *(Amended by Ord. 4228, 6/18/96)*

1. A Land Use Permit shall remain valid only as long as all provisions of this Article and the Permit are met.

2. A Land Use Permit shall expire two (2) 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. Prior to the expiration of such two (2) year period, the Director may grant one extension of one year, for good cause shown, provided that the findings for approval required pursuant to Sec. 35-314.5., can still be made.

**Sec. 35-314.7. Revocation.** *(Amended by Ord. 3595, 10/06/86; Ord. 4228, 6/18/96)*

Issuance of the Land Use 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 Land Use Permit may be appealed to the Planning Commission, as provided in Sec. 35-327.

**Sec. 35-314.8. Minor Changes to Land Use Permits.** *(Added by Ord. 4228 6/18/96)*

Minor changes to an approved or issued Land Use Permit shall be allowed provided that the changes substantially conform with the approved or issued permit. Such requests shall be processed as follows:

1. The Planning and Development Department may approve a minor change (e.g., interior alterations to the structure) to an approved or issued Land Use Permit subject to all of the following:
   a. The Department determines that the minor change conforms substantially with the approved plans and the originally approved or issued permit,
   b. There is no change in the use or scope of the development,
c. The minor change does not result in a change to the Planning and Development Department's conclusions regarding the project's specific conformance to development standards and findings, and

d. The Land Use Permit has not expired.

e. The minor change is exempt from review by the Board of Architectural Review pursuant to Section 35-329.3.

2. Where a minor change of an approved or issued Land Use Permit is approved, such permit shall have the same effective and expiration dates as the original Permit and no additional public notice shall be required.

3. The determination to allow a minor change to an approved or issued Land Use Permit shall be final and not appealable.

Where it cannot be determined that the minor change materially conforms to an approved or issued Land Use Permit, subject to the above criteria, a new Land Use Permit shall be required.
Sec. 35-315. Conditional Use Permits.

Sec. 35-315.1. Purpose and Intent.
The purpose of this Sec. 35-315 is to provide for uses that are essential or desirable but cannot be readily classified as principally permitted uses in individual districts by reason of their special character, uniqueness of size or scope, or possible effect on public facilities or surrounding uses. The intent of this section is to provide for discretionary review of these uses.

Sec. 35-315.2. Applicability.
The provisions of this Sec. 35-315 shall apply to those uses listed below under Sec. 35-315.4. and .5. and those uses listed in the "Uses Permitted with a Conditional Use Permit" section in various zone districts.

Sec. 35-315.3. Jurisdiction. (Amended by Ord. 4228, 6/18/96)
1. The Zoning Administrator shall have jurisdiction of all Minor Conditional Use Permits and extensions of time thereof and the Planning Commission shall have jurisdiction of all Major Conditional Use Permits and extensions of time thereof.

Sec. 35-315.4. Minor Conditional Use Permits. (Amended by Ord. 3439, 04/16/84 & 3452, 07/16/84 & 3477, 12/17/84)
The following uses may be permitted in any zone district in which they are not otherwise permitted with a Minor Conditional Use Permit, provided the Zoning Administrator can make the findings set forth in Section 35-315.8. (Findings).
1. Buildings, structures, facilities and uses of a public works, utilities or private service nature, except airports, including, but not limited to, the following: (Amended by Ord. 3800, 1/9/90; Ord. 4085, 12/15/92)
   a. Unless otherwise provided for in specific districts' regulations, reservoirs that are 50,000 square feet or more of total development.
   b. Water production, storage, and treatment systems and distribution lines, including but not limited to, shared water systems, community water systems, water treatment plants, water package plants and appurtenant fixtures and structures associated with water wells and water storage tanks, proposed to serve more than one domestic, commercial, industrial or recreational connection in the RR, R-1/E-1, R-2, and EX-1 districts and more than five connections in all other zone districts.
   c. Commercial water trucking facilities involving extraction and storage operations in the RR, R-1/E-1, R-2, EX-1, DR, PRD, SLP, MHP and MHS zoning districts.
d. Septic tanks or dry wells on all lots in designated Special Problems Areas for sewage disposal.

e. Experimental waste disposal systems such as, mound or evapo-transpiration systems.

f. Electrical substations subject to the performance standards and district requirements of the Public works, Utilities and Private Services Facilities District, Sec. 35-238, excluding major electric transmission substations.

g. Private flood control projects of more than 21,000 square feet of total development area. (Amended by Ord. No. 3800, 01/09/90; Ord. 4085, 12/15/92)

(Amended by Ord. No. 3800, 01/09/90)

2. Fences and walls over six (6) feet in height when located within the front yard setback or when located within the side yard setback and closer than twenty (20) feet to the right-of-way of any street. Within areas of the side yard setback that are more than twenty (20) feet from the right-of-way of any street or within the rear yard setback, fences and walls of more than eight (8) feet and gateposts of more than ten (10) feet in height. (Amended by Ord. 4002, 2/21/92)

3. Communication facilities, as specified in and governed by Section 35-292h. (Amended by Ord. 3800, 01/09/90; Ord. 4264, 6/24/97)

4. Sale of Agricultural products grown on the premises, subject to the additional requirements set forth in Section 35-315.12.

5. Special care homes, except as provided in Section 35-292a.4. (Amended by Ord. 3801, 01/09/90; Ord. 4379, 11/16/99)

6. Wind turbines and wind energy systems subject to the provisions of Section 35-300. (Energy Facilities).

7. Animals, use of property for animals different in kind or greater in number than otherwise permitted in this Article. (Amended by Ord. 4002, 2/21/92)

8. Child care facilities, as defined in Section 35-209, Definitions. (Added by Ord. 4319, 6/23/98)

9. Uses, buildings, and structures accessory and customarily incidental to the above uses.

Sec. 35-315.5. Major Conditional Use Permits.

The following uses may be permitted provided the Planning Commission can make the findings set forth in Section 35-315.8. (Findings).

1. Except in AG-I, AG-II, Residential Ranchette, Mountainous-GOL and Resource Management Zone Districts, the following uses may be permitted in any zone district in...
which they are not otherwise permitted, with a Major Conditional Use Permit:  (Amended by Ord. 4111, 7/20/93)

a. Clinic.
b. Conference center.
c. Hospital, sanitarium, nursing home, and rest homes. (Amended by Ord. 3801, 01/09/90)
d. Library.
e. Drive-through facilities for a use otherwise permitted in the zone district subject to the provisions of Section 35-315.12.  (Amended by Ord. No.3941, 9/10/91)
f. Music recording studio.  (Amended by Ord. 3941, 9/10/91)
g. Uses, buildings, and structures accessory and customarily incidental to the above uses.

2. The following uses may be permitted in any zone district in which they are not otherwise permitted, with a Major Conditional Use Permit:

a. Airport, public, or airstrip, private and temporary.
b. Cemetery.
c. Church.
d. Club facilities.
e. Country club.
f. Educational facilities not including child care facilities.  (Amended by Ord. 4319, 6/23/98)
g. Charitable and philanthropic institutions (except when human beings are housed under restraint).
h. Extraction and processing of natural, carbonated or mineral waters for sale, including, but not limited to storage, bottling, and shipping operations.  (Amended by Ord. 4085, 12/15/92)
i. Fairgrounds.
j. Golf courses and driving ranges.
k. Helistops.
l. Hostel.
m. Communication facilities, as specified in and govern by Sec. 35-292h.  (Amended by Ord. 4264, 6/24/97).
n. Mausoleum.
C.U.P.s

o. Mining, extraction, and quarrying of natural resources, except gas, oil, and other hydrocarbons, subject to the provisions of Sec. 35-320. (Reclamation Plans).
p. Monastery.
q. Mortuary accessory to a cemetery and subject to the provisions of Sec. 35-315.12.
r. Museum.
s. Polo fields and playing fields for outdoor sports.
t. Rodeo.
u. Stable, commercial (including riding and boarding).
v. Wind farms, subject to the provisions of Section 35-300. (Energy Facilities).
w. Buildings, structures, and uses of a public utility nature, including electrical transmission lines within the jurisdiction of the County. (Amended by Ord. 3800, 01/09/90; Ord. 4264, 6/24/96)
x. Other public works, utilities and private service facilities, including, but not limited to, the following:
   (1). Wastewater treatment plants, wastewater package plants, reclamation facilities, or other similar facilities, proposed to serve up to 199 connections. (Amended by Ord. 4085, 12/15/92)
y. Certified Farmer’s Market incidental to a conference center, club facility, fairground, church, school, or governmental or philanthropic institution. (Added by Ord. 4087, 12/15/92)
z. Uses, buildings, and structures accessory and customarily incidental to the above uses. (Amended by Ord. 4085, 12/15/92)

Sec. 35-315.6. 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 (Sec. 35-317.) as are applicable to the request.

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. (Amended by Ord. 4319, 6/23/98)

Sec. 35-315.7. Processing.
1. Upon receipt of the required copies of the Conditional Use Permit application, the Planning and Development Department shall process the application through environmental review.
2. 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. (Amended by Ord. 4228, 6/18/96)

3. The Planning Commission or Zoning Administrator shall then consider the requested Conditional Use Permit 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 accordance with Sec. 35-326. (Noticing).

4. The action of the Planning Commission or Zoning Administrator shall be final subject to appeal to the Board of Supervisors as provided under Sec. 35-327.3. (Appeals).

5. 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.

6. If a Revised Conditional Use Permit is required as provided in Sec. 35-315.11., 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. (Added by Ord. 4299, 3/24/98)

Sec. 35-315.8. Findings Required for Approval.
A Conditional Use Permit application shall only be approved or conditionally approved if 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 significant environmental impacts are mitigated to the maximum extent feasible.

3. That streets and highways are adequate and properly designed.

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 be compatible with the surrounding area.

6. That the project is in conformance with the applicable provisions and policies of this Article and the Comprehensive Plan.
7. That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.

**Sec. 35-315.9. Time Limit.**

1. Prior to the commencement of the development and/or authorized use permitted by the Conditional Use Permit, a Land Use 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 Land Use 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 eighteen (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 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 required time limit in which to obtain the Land Use Permit has expired and no extension has been filed, then the Conditional Use Permit shall be considered null and void. *(Amended by Ord. 4087, 12/15/92)*

2. A Conditional Use Permit shall become null and void and be automatically revoked if the use permitted under the Conditional Use Permit is discontinued for a period of more than one year. Said time may be extended by the decision-maker with jurisdiction over the project 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.

**Sec. 35-315.10. Revocation.**

If the decision-maker with jurisdiction over the project determines at a noticed public hearing pursuant to Section 35-326 (Public Hearing Notice) that the permittee is not in compliance with one or more of the conditions of the Conditional Use Permit, the decision-maker with jurisdiction over the project may revoke the Conditional Use Permit, or direct that the permittee apply for an Amendment or Revision, pursuant to Sec. 35-315.11. *(Amended by Ord. 4087, 12/15/92)*

**Sec. 35-315.11. Substantial Conformity, Amendments and Revisions.**

Changes to an approved Conditional Use Permit shall be processed as follows:

1. Substantial Conformity:
The Director may approve a minor change to an approved Conditional Use Permit, if the Director determines that the change is in substantial conformity with the approved permit, pursuant to the County's Substantial Conformity Guidelines. No public noticing or public hearing shall be required for Substantial Conformity Determinations. The action of the Director shall be final, and not appealable. Prior to the issuance of a Land Use Permit, pursuant to the Substantial Conformity Determination, an additional finding must be made that the Land Use Permit substantially conforms to the previous Conditional Use Permit.

(Amended by Ord. 4228, 6/18/96)

2. Amendments:

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

a. The area of the parcel(s) that is under review was analyzed for potential environmental impacts and policy consistency under the approved permit.

b. All of the following additional findings can be made:

1) In addition to the findings required for approval of a Conditional Use Permit set forth in this Sec. 35-315.8., the Amendment is consistent with the specific findings of approval, including CEQA findings, that were adopted when the Conditional Use Permit was previously approved.

2) The environmental impacts related to the proposed change are determined to be substantially the same or less than those identified for the previously approved project.

c. A public hearing shall not be required for amendments to an approved Conditional Use Permit. However, notice shall be given at least ten (10) days prior to the date of the decision-maker's decision as provided in Sec. 35-326. (Noticing). The decision-maker may approve, conditionally approve, or deny the Amendment. (Amended by Ord. 4299, 3/24/98)

Republished June 2001
3. Revisions:
   a. A Revised Conditional Use Permit shall be required for changes to an approved
      Conditional Use Permit where the findings set forth in Sec. 35-315.11. for
      Amendments cannot be made and substantial conformity cannot be determined.
   b. A Revised Conditional Use Permit shall be processed in the same manner as a new
      Conditional Use Permit.

(Added by Ord. 4087, 12/15/92)

Sec. 35-315.12. Conditions, Restrictions, and Modifications  (Added by Ord. 4228, 6/18/96)
1. At the time the Conditional Use Permit is approved, or subsequent Amendments or
   Revisions are approved, the Director, Zoning Administrator, Planning Commission, or
   Board of Supervisors may modify the building height limit, distance between buildings,
   setback, yard, parking, building coverage, landscaping or screening requirements specified
   in the applicable zone district when the Director, Zoning Administrator, Planning
   Commission, or Board of Supervisors finds that such modifications are justified and
   consistent with the Comprehensive Plan and the intent of other applicable regulations and
   guidelines.

2. As a condition of approval of any Conditional Use Permit, or of any subsequent
   Amendments or Revisions, the Director, Zoning Administrator, Planning Commission, or
   Board of Supervisors may impose any appropriate and reasonable conditions or require any
   redesign of the project as they may deem necessary to protect the persons or property in the
   neighborhood, to preserve the neighborhood character, natural resources or scenic quality of
   the area, to preserve or enhance the public peace, health, safety, and welfare, or to
   implement the purposes of this Article.

3. The Director, Zoning Administrator, Planning Commission, or Board of Supervisors may
   require as a condition of approval of any Conditional Use Permit, or of any subsequent
   Amendment or Revision, the preservation of trees existing on the property.

Sec. 35-315.13. Additional Requirements.  (Amended by Ord. 4228, 6/18/96; Ord. 4254, 6/24/97)
In addition to the provisions set forth above, the following uses shall be subject to additional
requirements as set forth below:

1. Mortuaries, Crematories, and Funeral Homes.
   Subject to the issuance of a Conditional Use Permit, mortuaries, crematories, and funeral
   homes may be permitted in the following locations:
a. Within cemeteries operating under a valid Land Use Permit,
b. On any parcel of land abutting such a cemetery, or
c. On property zoned to permit multiple family dwellings where such property abuts upon or is directly across the street from property zoned for commercial or industrial purposes.

In all such locations, the Planning Commission shall impose conditions requiring that the architectural design of all buildings and structures be compatible with neighboring residential buildings, that signs are unobtrusive, and that adequate off-street parking space is provided for funeral procession assembly areas.

2. Handicraft Industries.

A Conditional Use Permit may be issued under the provisions of this Sec. 35-315. for the manufacture in C-2 and C-3 Districts of handicraft items, jewelry, notions, and other items on a small scale, and involving no effects on surrounding property which would constitute a greater nuisance than those created by other uses permitted in the district in which such manufacture is allowed. A Conditional Use Permit for such use may only be issued subject to the provisions of this Sec. 35-315. and to the following conditions and to any further conditions which, in the opinion of the Zoning Administrator are necessary to protect the public peace, health, safety, and general welfare, to maintain property values in the neighborhood, and to safeguard essential community services and values such as traffic circulation, sewage disposal, water supply, fire protection, and neighborhood character:

(Amended by Ord. 4002, 2/21/92)

a. All manufacturing activities shall be conducted within a completely enclosed building having a total gross floor area of not to exceed 2,500 square feet.
b. All storage of materials and equipment shall be screened from view from surrounding properties by a solid fence or wall approved by the Zoning Administrator. (Amended by Ord. 4002, 2/21/92; Amended by Ord. 4063, 8/18/92)
c. No fumes, noxious gases, objectionable odors, heat, glare, or radiation generated by or resulting from such use shall be detectable at any point upon the boundary of the property upon which the use is located.
d. The use shall create no objectionable noise or vibration.
e. No smoke or dust shall be created except from the heating of buildings.
3. Drive-through Facilities.

In considering an application for such a Conditional Use Permit, in addition to the findings in Sec. 35-315.8., the permit shall be granted only if the drive-through facility is found to have no greater adverse impact upon air quality than the same use without the drive-through facility.

4. Sale of agricultural products grown on the premises. *(Added by Ord. 3439, 04/16/84)*
   a. This use shall not be permitted in the EX-1 Zoning District.
   b. The premises shall consist of two (2) or more contiguous acres.
   c. If a building or structure is required for the sale of such products, the sale shall be conducted either within an existing accessory building or from a separate stand not to exceed two hundred (200) square feet of sales and storage area except that if the premises consist of five (5) or more contiguous acres, such building shall not exceed six hundred (600) square feet. The building or structure shall be located no closer than 20 feet to the right-of-way line of any street; this requirement shall apply in lieu of any other setback requirements of the zone district or the sign regulations. Only one (1) stand shall be allowed on the premises.
   d. New structures shall be approved by the County Board of Architectural Review.
   e. A building permit shall be obtained, if required by the Division of Building and Safety.
   f. Signs advertising the sale of agricultural products shall conform to Section 35-16.2 of Article I of Chapter 35 of the Santa Barbara County Code.
   g. A minimum of two (2) permanently maintained onsite parking spaces shall be provided, which shall not be located closer than 20 feet to the right-of-way line of any street.
   h. Prior to the issuance of a land use permit, a permit for the sale of agricultural products shall be obtained from the Department of Health Care Services pursuant to Title 17, California Administrative Code Section 13653.

5. Composting Facility. *(Added by Ord. 4118, 9/21/93)*

A Conditional Use Permit may be issued under the provisions of this Sec. 35-315. for a Composting Facility, in an AG-I or AG-II District, that includes the use of off-premise generated feedstock and may include the on-premise commercial sale of the resultant compost products, subject to, at a minimum, the following conditions:
a. The facility shall at all times be in compliance with the applicable regulations contained in the California Code of Regulations, Title 14, Division 7, as may be amended from time to time.

b. If a building or structure is required for the sale of such product, the sale shall be conducted either within an existing accessory building or from a single, separate stand not to exceed 600 square feet of sales and storage area.

c. Signs accessory to the facility shall conform to Article I of Chapter 35 of the Santa Barbara County Code (Sign Ordinance).

d. A minimum of two permanently maintained on-site parking spaces shall be provided which shall not be located closer than 20 feet to the right-of-way line of any street.

e. All other permits required by County departments for such a facility, except those permits required by the Department of Public Works, Division of Building and Safety, shall be obtained prior to issuance of zoning clearance which is required prior to commencement of the use of the facility.

f. Tonnage reports showing the amount of materials used in the composting operation shall be given to the Department of Public Works, Solid Waste Division, and the Department of Environmental Health, on a quarterly basis.
Sec. 35-316. Variances.

Sec. 35-316.1. Purpose and Intent.

The purpose and intent of this section is to allow variances from the strict application of the regulations on land, buildings, and structures of this Article where, because of exceptional conditions such as the size, shape, unusual topography, or other extraordinary situation or condition of such piece of property, the literal enforcement of this Article would impose practical difficulties or would cause undue hardship unnecessary to carry out the intent and purpose of this zoning ordinance.

Sec. 35-316.2. Applicability.

1. The provisions of this section shall apply to all zone districts.

2. In no case shall a variance be granted to permit a use or activity which is not otherwise permitted in the district in which the property is located.

3. Variances may only be granted from the regulations on land, buildings, and structures, and no variances may be granted from the procedural regulations of this Article.

Sec. 35-316.3. Jurisdiction.

Upon making the findings required under this section, the Zoning Administrator may approve or conditionally approve Variances to the regulations applicable to physical standards for land, buildings, and structures contained in this Article. (Amended by Ord. 4003, 2/21/92).

Sec. 35-316.4. Contents of Application.

As many copies of a Variance application as may be required shall be submitted to the Planning and Development Department. Said application shall contain full and complete information as required pertaining to the request.

Sec. 35-316.5. Processing.

1. An application filed pursuant to this section that is inconsistent with the use and/or density requirements of this Article or the adopted Comprehensive Plan must be accompanied by an application to make the project consistent. The Planning and Development Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.

2. The Zoning Administrator shall hold at least one noticed public hearing on the requested Variance 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. 35-326 (Noticing). (Amended by Ord. 4003, 2/21/92)
3. The Zoning Administrator, in granting said Variance may require such conditions as deemed necessary to assure that the intent and purpose of this Article and the public health, safety, and welfare will be promoted. *(Amended by Ord. 4003, 2/21/92)*

4. The Zoning Administrator's action is final, subject to appeal to the Board of Supervisors as provided in Sec. 35-327. (Appeals). *(Amended by Ord. 4003, 2/21/92)*

Sec. 35-316.6. Findings Required for Approval.

A Variance shall only be approved if all of the following findings are made:

1. Because of special circumstances applicable to the property, including but not limited to size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

2. The granting of the variance shall not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which such property is situated.

3. That the granting of the variance will not be in conflict with the intent and purpose of this Article or the adopted Santa Barbara County Comprehensive Plan.

4. The applicant agrees in writing to comply with all conditions imposed by the County in the granting of the variance.
Sec. 35-317. Development Plans.

Sec. 35-317.1. Purpose and Intent.
The purpose of a Development Plan is to provide discretionary action for projects allowed by right within their respective zoning districts which, because of the type, scale, or location of the development, require comprehensive review.

Sec. 35-317.2. Applicability.
1. No permit shall be issued for any development, including grading, for any property subject to the provisions of this Sec. 35-317. until a Preliminary and/or Final Development Plan has been approved as provided below. (Amended by Ord. 4087, 12/15/92)

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), Service Commercial (SC), 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), Service Industrial Goleta (M-S-GOL), Mixed Use (MU), Old Town Districts (OT), Shopping Center Commercial (SC), 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 for the entire site when combined with all outdoor areas designated for sales or storage and existing buildings and structures on the site. (Amended by Ord. 4004, 2/21/92; Ord. 4063, 8/18/92; Ord. 4145, 2/8/94; Ord. 4264, 6/24/96; and Ord. 4319, 6/23/98)
   b) Where a project was legally developed without an effective Development Plan and is considered nonconforming due to the absence of a Development plan, a Final Development Plan may be processed for such “as built” development. (Added by Ord. 4319, 6/23/98)
   c) Communication facilities as specified in Sec. 35-292h. (Added by Ord. 4264, 6/24/97)

3. The following shall be under the jurisdiction of the Zoning Administrator and shall be processed as set forth herein:
   a) In the Neighborhood Commercial (CN), Visitor Serving Commercial (CV), and Public Utilities (PU), zoning districts, Preliminary and Final Development Plans for buildings and structures which do not exceed a total of 15,000 square feet in gross floor area for the entire site, when combined with all outdoor areas designated for
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sales or storage and existing buildings and structures on the site. (Added by Ord. 4063, 8/18/92; Amended by Ord. 4264, 6/24/97; and Ord. 4319, 6/23/98)

b) In the Highway Commercial (CH), Service Commercial (C-S), 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), Service Industrial Goleta (M-S-GOL), Mixed Use (MU), Old Town Districts (OT), Shopping Center Commercial (SC), Professional and Institutional (PI), zoning districts, Preliminary and Final Development Plans for buildings and structures and outdoor areas designated for sales or storage that exceed 10,000 square feet but do not exceed 15,000 square feet. (Added by Ord. 4319, 6/23/98)

c) Communication facilities as specified in Sec. 35-292h. (Added by Ord. 4264, 6/24/97)

4. All Development Plans outside the jurisdiction of the Director or the Zoning Administrator shall be within the jurisdiction of the Planning Commission. (Added by Ord. 4319, 6/23/98)

5. An applicant may file a Preliminary and then a Final Development Plan, or just a Final Development Plan. When only a Final Development Plan is filed, it shall be processed in the same manner as a Preliminary Development Plan.

6. No portion of any property not included within the boundaries of the Development Plan shall be entitled to any development permits.

Sec. 35-317.3. Contents of Preliminary Development Plan.

1. Unless the Planning Commission expressly waives the requirement, an application for a rezone to any district which is subject to the regulations of this section shall include a Preliminary Development Plan as part of the application. Upon Board of Supervisors' approval of the Rezoning and the Preliminary Development Plan, the Preliminary Development Plan may be made a part of the adopting ordinance amendment placing the new zone district regulations on the property.

2. As many copies of a Preliminary Development Plan as may be required shall be submitted to the Planning and Development Department. Unless otherwise specifically waived by the Planning and Development Director, the information submitted as part of the Preliminary Development Plan shall include the following:

a. A site plan of the proposed development drawn in graphic scale showing (Amended by Ord. 4087, 12/15/92):
1) Gross and net acreage and boundaries of the property *(Amended by Ord. 4319, 6/23/98)*

2) Location of areas of geologic, seismic, flood, and other hazards

3) Location of areas of prime scenic quality, habitat resources, archaeological sites, water bodies, and significant existing vegetation

4) Location of all existing and proposed structures, their use, and square footage of each structure

5) All interior circulation patterns including existing and proposed streets, walkways, bikeways, and connector roads and other major highways

6) Location of all utilities *(Amended by Ord. 4319, 6/23/98)*

7) Location and use of all buildings and structures within 50 feet of the boundaries of the property

8) Location and amount of land devoted to public purposes, open space, landscaping, and recreation

9) Location and number of parking spaces

10) All easements.

b. A topographic map that meets Planning and Development's requirements including existing natural and proposed contours. *(Amended by Ord. 4319, 6/23/98)*

c. Proposed drainage system.

d. Proposed (schematic) building elevations, including building height(s) and other physical dimensions drawn in graphic scale *(Amended by Ord. 4087, 12/15/92).*

e. Statistical information including the following:

1) Number and type of dwelling units in each building, i.e., single family dwelling, condominium, apartment, etc., and number of bedrooms in each unit.

2) Square footage and percentage of total net land area of the property devoted to landscaping and open space.

3) Total number of parking spaces and parking ratio - parking spaces per building square foot, number of employees or dwelling units, whichever is applicable.

4) Total square footage of gross floor area of all stories, and percent of total net land area of the site covered by buildings.
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5) Estimated number of potential residents in each residential category.
6) Number of employees and number of proposed new employees, if applicable.
7) Average slopes. (Amended by Ord. 4319, 6/23/98)
8) History of water use on the property measured in acre feet per year for the preceding ten (10) years, when available. (Added by Ord. 4087, 12/15/92)

f. Aerial photograph of the property and surrounding parcels, when available. (Added by Ord. 4087, 12/15/92)
g. Demonstration of a validly created parcel and graphic configuration of such legal parcels. (Added by Ord. 4087, 12/15/92)
h. A statement of intent with respect to the establishment of utilities, services, and facilities including water, sewage disposal, fire protection, police protection, schools, and transportation, i.e., access, proximity to public transit, or provision of bike lanes, etc.
i. Measures to be used to prevent or reduce nuisance effects, such as noise, dust, odor, smoke, fumes, vibration, glare, traffic congestion, and to prevent danger to life and property.
j. If development is to occur in stages, the sequence and timing of construction of the various phases.
k. Proposed public access or recreational areas, trails, or streets to be dedicated to the County.
l. Any other data requested by the Planning and Development Department.

Sec. 35-317.4. Processing of Preliminary Development Plan.
1. Any application filed pursuant to this section that is inconsistent with the use and/or density requirements of this Article or the adopted Comprehensive Plan must be accompanied by an application to make the project consistent. The Planning and Development Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.

2. Upon receipt of the Preliminary Development Plan, the Planning and Development Department shall process the plan through environmental review.

3. The Planning and Development Department shall refer the Preliminary Development Plan 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.  (Amended by Ord. 4004, 2/21/92; Ord. 4068, 8/18/92; Ord. 4228, 6/18/96)

4. If the Preliminary Development Plan is under the jurisdiction of the Director, 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. 35-326 (Noticing). The Director may approve, conditionally approve, approve with modifications of development standards, or deny the plan. The Director's decision shall be final, subject to appeal to the Planning Commission as provided in Section 35-327. (Appeals). (Amended by Ord. 4004, 2/21/92; Amended by Ord. 4087, 12/15/92; and Ord. 4319, 6/23/98)

5. The Planning Commission or Zoning Administrator shall consider Preliminary Development Plans within their jurisdictions at a noticed public hearing and approve, conditionally approve, approve with modification of development standards, or deny the plan. The Planning Commission or Zoning Administrator action shall be final, subject to appeal to the Board of Supervisors as provided in Sec. 35-327. (Appeals). (Amended by Ord. 4004, 2/21/92) (Amended by Ord. 4063, 8/18/92; Amended by Ord. 4087, 12/15/92)

6. If the Preliminary Development Plan is in conjunction with a Rezone application, the Planning Commission shall recommend approval, conditional approval, approval with modification of the development standards, or denial to the Board of Supervisors. (Amended by Ord. 4087, 12/15/92)

7. If a Revised Preliminary Development Plan is required as provided in Sec. 35-317.10., 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. (Amended by Ord. 4004, 2/21/92; Ord. 4063, 8/18/92; Ord. 4087, 12/15/92)

Sec. 35-317.5. 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 Sec. 35-317.3., Preliminary Development Plan submittal.
   b. Floor plans of each building indicating ground floor area and total gross and net floor area of each building.
c. Proposed landscaping indicating type of irrigation proposed, existing and proposed trees, shrubs, and ground cover, and delineating species, size, and placement. (Amended by Ord. 4087, 12/15/92)

d. Description of proposed Homeowners Association (if applicable), indicating major elements to be included in the CCR’s, deeds, and restrictions and methods of open space maintenance. (Amended by Ord. 4087, 12/15/92).

e. The proposed method of fulfilling all conditions of approval required on the Preliminary Development Plan.

f. Any other data requested by the Planning and Development Department.

Sec. 35-317.6. Processing of Final Development Plan. (Amended by Ord. 3614, 10/17/86)

1. Any application filed pursuant to this section that is inconsistent with the use and/or density requirements of this Article or the adopted Comprehensive Plan must be accompanied by an application to make the project consistent. The Planning and Development Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.

2. Upon receipt of the Final Development Plan, the Planning and Development Department shall process the plan through Environmental Review and refer the plan to the Subdivision Committee, unless there is no change from the preliminary Development Plan.

3. The Final Development Plan shall be referred 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 35-329, Board of Architectural Review. (Amended by Ord. 4319, 6/23/98)

4. When the Board of Supervisors, Planning Commission, Zoning Administrator, or Director has approved a 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 35-326. The Director's action shall be final subject to appeal to the Planning Commission as provided in Sec. 35-327. (Appeals). (Amended by Ord. 4004, 2/21/92; Ord. 4063, 8/18/92; and Ord. 4319, 6/23/98)
5. 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, other than those required by conditions set in the Preliminary Development Plan, the Director shall refer the Final Development Plan to the hearing body with jurisdiction (Planning Commissioner or Zoning Administrator) for approval. *(Amended by Ord. 4004, 2/21/92; 4063, 8/18/92)*

6. When there is no Preliminary Development Plan, the Final Development Plan shall be processed according to Sec. 35-317.4. *(Amended by Ord. 4004, 2/21/92)*

**Sec. 35-317.7. Findings Required for Approval.**

1. A Preliminary or Final Development Plan shall be approved only if all of the following findings can be made:
   
a. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of development proposed.
   
b. That adverse impacts are mitigated to the maximum extent feasible.
   
c. That streets and highways are adequate and properly designed.
   
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 areas.
   
f. That the project is in conformance with 1) the Comprehensive Plan and 2) the applicable provisions of this Article and/or the project falls with the limited exception allowed under Section 35-306.7. *(Amended by Ord. 4228, 6/18/96)*
   
g. That in designated rural areas the use is compatible with and subordinate to the scenic 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.

2. A Final or Revised Final Development Plan shall only be approved if the following additional finding is made:

   Such 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 no
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. *(Amended by Ord. 4004, 2/21/92; Ord. 4087, 12/15/92)*

**Sec. 35-317.8. Conditions, Restrictions, and Modifications.**

1. At the time the Preliminary or Final Development Plan is approved, or subsequent amendments or revisions are approved, the Director, Zoning Administrator, Planning Commission, or Board of Supervisors may modify the building height limit, distance between buildings, setback, yard, parking, building coverage, landscaping or screening requirements specified in the applicable zone district when the Director, Zoning Administrator, Planning Commission, or Board of Supervisors finds that such modifications are justified. *(Amended by Ord. 4004, 2/21/92; and Ord. 4319, 6/23/98)*

2. As a condition of approval of any Preliminary or Final Development Plan, the Director, Zoning Administrator, Planning Commission, or Board of Supervisors may impose any appropriate and reasonable conditions or require any redesign of the project as they may deem necessary to protect the persons or property in the neighborhood, to preserve the neighborhood character, natural resources or scenic quality of the area, to preserve or enhance the public peace, health, safety, and welfare, or to implement the purposes of this Article. *(Amended by Ord. 4004, 2/21/92; Ord. 4063, 8/18/92)*

3. The Director, Zoning Administrator, Planning Commission, or Board of Supervisors may require as a condition of approval of any Development Plan, the preservation of trees existing on the property. *(Amended by Ord. 4004, 2/21/92; Ord. 4063, 8/18/92)*

**Sec. 35-317.9. Time Limit.**

1. A Preliminary Development Plan shall expire two (2) years after its approval, except that, for good cause shown, it may be extended for one year from the date the extension was 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, which ever comes first. A written request to extend the life of the Preliminary Development Plan must be received prior to the expiration of such Plan. *(Amended by Ord. 4228, 6/18/96)*

2. Except as provided in Sec. 35-317.9.3., below, Final Development Plans shall expire five (5) 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.
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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. *(Amended by Ord. 4063, 8/18/92; Ord. 4228, 6/18/96)*

3. In the designated Rural Area, for parcels with a base Zone District of AG-II and no designated Comprehensive Plan or Zoning overlays, Final Development Plans for Agricultural Development shall expire ten (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. *(Added by Ord. 4063, 8/18/92; Amended by Ord. 4228, 6/18/96)*

Sec. 35-317.10. **Substantial Conformity, Amendments and Revisions** *(Added by Ord. 4087, 12/15/92)*

Changes to an approved 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. No public noticing or public hearing shall be required for Substantial Conformity Determinations. The action of the Director shall be final and not appealable. Prior to the issuance of a Land Use Permit, pursuant to the Substantial Conformity Determination, an additional finding must be made that the Land Use Permit substantially conforms to the previous Final Development Plan. *(Amended by Ord. 4228, 6/18/96)*
2. Amendments:

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

a. The area of the proposed new development that is under review was 1) analyzed for potential environmental impacts and policy consistency as a part of the approved permit and an addendum to the previous environmental document could be prepared, or 2) was not analyzed in a previous environmental document and policy consistency was not considered as part of the approved permit, but the proposed new development could be found to be exempt from CEQA. *(Amended by Ord. 4319, 6/23/98)*

b. All of the following additional findings can be made:

1) In addition to the findings required for approval of a Final Development Plan set forth in this Sec. 35-317.7., the proposed Amendment is consistent with the specific findings of approval, including CEQA findings, if applicable, that were adopted when the Final Development Plan was previously approved. *(Amended by Ord. 4319, 6/23/98)*

2) The environmental impacts related to the proposed change are determined to be substantially the same or less than those identified for the previously approved project.

c. A public hearing shall not be required for Amendments to a Final Development Plan. However, notice shall be given at least ten (10) days prior to the date of the Director’s decision as provided in Sec. 35-326. *(Noticing).* The Director may approve, conditionally approve, or deny the Amendment. *(Amended by Ord. 4299, 3/24/98)*

3. Revisions:

a. A Revised Development Plan shall be required for changes to a Preliminary, or for changes to a Final Development Plan where the findings set forth in Sec. 35-317.10. for Amendments cannot be made and substantial conformity 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 35-317.10.3.c below. *(Amended by Ord. 4155, 5/3/94)*
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 35-317.7 can be made. The Revision shall be confined to housing requirements only. The provisions of this Section shall expire on 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 of 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.

(Added by Ord. 4155, 5/3/94)
Sec. 35-318. Specific Plans.

Sec. 35-318.1. Purpose and Intent.
1. These regulations are based on the recognition that one parcel or a group of parcels of land which may be in separate ownership are suitable for a specific use or combination of uses, and should be planned as a unit to ensure protection of valuable resources and allow maximum flexibility in site planning.

2. The purpose of the Specific Plan is to allow for a more precise level of planning for an area than is ordinarily possible in the Comprehensive Plan Land Use Element and to provide for a mixture of uses through comprehensive site planning.

3. This section is adopted to guide the preparation of Specific Plans pursuant to the provisions of Gov't. Code. § 65450-553.

Sec. 35-318.2. Applicability.
1. A Specific Plan shall not be considered adopted until a site development plan as described in Sec. 35-318.3. paragraph 2., together with the required accompanying data, have been approved by ordinance by the Board of Supervisors after consideration at a noticed public hearing and a recommendation by the Planning Commission.

2. At the time of adoption of the Specific Plan, the Board of Supervisors shall determine whether the existing zoning on the property is consistent with the Specific Plan. If the Board of Supervisors finds that it is not consistent, then either the County of Santa Barbara or proponent of the Specific Plan shall initiate rezoning of the parcel(s) to bring the zoning into conformance with the Specific Plan.

3. Even after the Board of Supervisors adopts the Specific Plan, no construction shall commence on properties requiring a Specific Plan until a Final Development Plan, as provided in Sec. 35-317., (Development Plans), has been approved.

Sec. 35-318.3. Contents of Specific Plans.
1. As many copies of a Specific Plan as may be required shall be submitted to the Planning and Development Department.

2. Unless specifically otherwise authorized in writing by the Director, the information submitted as part of the Specific Plan shall consist of a site development plan including a map or maps drawn to scale and other supplemental information indicating:
   a. Acreage and approximate boundaries of the property;
   b. Contour maps showing topography and areas proposed for major regrading;
SPECIFIC PLANS

c. Approximate width and location of proposed streets and their connector roads and other major highways on surrounding property;
d. Location of areas of geologic, seismic, flood, and other hazards;
e. Location of areas of prime scenic quality, habitat resources, archaeological sites, water bodies, and areas with significant existing vegetation;
f. Location of all proposed structures including but not limited to residential (distinguishing between the various types of residential structures, i.e., single family dwelling, duplex, apartment, condominium, etc.), industrial, and recreational structures, a description of the general dimensions and square footage of each of these structures, and an indication of the total number of and estimated total population for each type of dwelling unit;
g. Location and amount of open space for use by prospective residents and the public;
h. Location and description of proposed recreational facilities;
i. Location of parking areas;
j. A statement of intent with respect to establishment of utilities, services, and facilities, including water, sewage disposal, fire protection, police protection, and schools;
k. If development is to occur in stages, a general indication of the sequence and time of construction of the various phases; and
l. Any other supplementary data requested by the Planning and Development Department.

Sec. 35-318.4. Processing.

1. After receipt of the Specific Plan, the Planning and Development Department shall process the plan through environmental review.

2. The Planning and Development Department shall refer the Specific Plan to the Subdivision/Development Review Committee for review and recommendation to the Planning Commission.

3. The Planning Commission shall hold at least one noticed public hearing on the Specific Plan. Notice of time and place of said hearing shall be given in accordance with the procedures set forth in Sec. 35-326. (Noticing). Any hearing may be continued from time to time.
4. If the Planning Commission recommends approval, with or without modifications, the matter shall be referred back to the Planning and Development Department and County Counsel for the preparation of an ordinance adopting the Specific Plan. The Planning Commission's recommendation on the Specific Plan shall be transmitted to the Board of Supervisors by Resolution of the Planning Commission carried by the affirmative votes of not less than a majority of its total voting members. The Resolution shall be accompanied by a statement of the Planning Commission's reasons for such recommendation.

5. The Board of Supervisors shall hold at least one noticed public hearing before adopting the proposed Specific Plan. The notice of time and place of said hearing shall be given in the same time and manner as provided for the giving of notice of the hearing by the Planning Commission. Any hearing may be continued from time to time.

6. The Board of Supervisors shall not make any change or addition to any proposed Specific Plan thereto recommended by the Planning Commission until the proposed change or addition has been referred to the Planning Commission for a report and a copy of the report has been filed with the Board of Supervisors. Failure of the Planning Commission to report within 40 days after the reference or such longer period as may be designated by the Board of Supervisors shall be deemed to be approval of the proposed change or additions. It shall not be necessary for the Planning Commission to hold a public hearing on the proposed change or addition.

7. The adoption of the Specific Plan shall be by ordinance.

8. Even after adoption of a Specific Plan, no permits shall be issued for construction, erection, or moving in of any building, nor for grading, nor for any use of land which requires a Land Use Permit until a Final Development Plan as required under the applicable zoning district has been approved.

9. Amendments to the Specific Plan shall be processed in the same manner as specified for adoption of an original Specific Plan.

Sec. 35-318.5. Findings Required for Approval.

A Specific Plan shall not be adopted unless all of the following findings are made:

1. The Specific Plan is in conformance with and will implement all applicable Comprehensive Plan policies and incorporates any other conditions specifically applicable to the parcels that are set forth in the plan.
2. The Specific Plan will not be detrimental to the health, safety, comfort, convenience, and
general welfare of the neighborhood.

3. The Specific Plan will not adversely affect necessary community services such as traffic
circulation, sewage disposal, fire protection, and water supply.
Sec. 35-319. Oil Drilling and Production Plans

Sec. 35-319.1. Purpose and Intent.

The purpose of Oil Drilling and Production Plans is to provide for discretionary review of the facilities for oil and gas drilling and/or production which may, because of scale or location of development, have a significant potential for impacts on natural resources. The intent of the requirements for Oil Drilling and Production Plans is to insure that impacts on natural resources from such activities are minimized to the maximum extent feasible.

Sec. 35-319.2. Applicability of Oil Drilling and Production Plans.

No Land Use Permit shall be issued for any activity related to oil and gas drilling or production, including grading, for any property subject to the provisions of this section until an Oil Drilling and Production Plan has been approved as provided herein. Only property included within the boundaries of an approved Oil Drilling and Production Plan shall be entitled to a Land Use Permit for oil drilling and production operations.

Sec. 35-319.3. Contents of Oil Drilling and Production Plans.

As many copies of an Oil Drilling and Production Plan as may be required shall be submitted to the Planning and Development Department. Unless otherwise specifically waived by the Director, the information to be submitted as part of an Oil Drilling and Production Plan shall consist of the following:

1. A U.S.G.S. map (7.5 minute series topographic) or facsimile showing the project site(s); lease boundaries; and the routing of existing and proposed roads and pipelines to be used in conjunction with the project.

2. A plot plan, drawn to scale, showing:
   a) Property lines;
   b) Drill sites;
   c) Location of the drill rig, mud pit and other proposed facilities;
   d) Accurate location and width of proposed roads; and
   e) Water courses, roads, and buildings within 200 feet of the site.

3. Copy of completed State Division of Oil and Gas and County Petroleum applications.

4. Copy of completed County environmental review application form and petroleum supplement.

5. Photographs of the site taken from all directions.
OIL DRILLING & PRODUCTION PLANS

6. Any other reasonable information as deemed necessary by the Planning and Development Department.

Sec. 35-319.4. Processing of Oil Drilling and Production Plans.
1. The applicant may apply for the drilling operations only; production facilities only; or both drilling and production facilities.
2. After receipt of the Oil Drilling and Production Plan, the Planning and Development Department shall process the plan through environmental review.
3. The Planning and Development Department shall refer the Oil Drilling Production Plan to appropriate County departments for review.
4. The Planning Commission shall then consider the Oil Drilling and 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 Sec. 35-327. (Appeals).
5. If the Oil Drilling and Production Plan is filed in conjunction with a Conditional Use Permit application, the Oil Drilling and Production Plan shall be processed as part of the Conditional Use Permit.

Sec. 35-319.5. Findings Required for Approval of Oil Drilling and Production Plans.
An Oil Drilling and Production Plan shall only be approved if all of the following applicable findings are made:
1. There are no feasible alternative locations for the proposed project that are less environmentally damaging.
2. Significant adverse environmental effects are mitigated to the maximum extent feasible.
3. The project will not be detrimental to the health, safety, and general welfare of the neighborhood and will not be incompatible with uses of the surrounding area.
4. The development is in conformance with the applicable provisions of this Article and the Comprehensive Plan.
5. When a permit for drilling only is requested, subsequent oil and gas production can be accommodated should the proposed drilling program be successful.
6. For projects requiring a Conditional Use Permit, the findings in Sec. 35-315.8. (Conditional Use Permits) shall also apply.
Sec. 35-319.6. Conditions, Restrictions, and Modifications of Development Standards.

1. At the time the Oil Drilling and Production Plan is approved, the Planning Commission may modify the development standards specified in Sec. 35-295. (Oil and Gas Drilling and Production) when the Planning Commission finds that such modifications are justified.

2. As a condition of approval of any Oil Drilling or Production Plan, the Planning Commission may impose appropriate and reasonable conditions as deemed necessary to protect persons or property, to preserve the natural resources or scenic quality of the area, to preserve the public health, safety, and welfare, or to implement the purposes of this Article or the Comprehensive Plan.

3. If drilling only is requested in the Oil Drilling and Production Plan, the following shall apply:

   a. If the drilling program is successful, a new Oil Drilling and Production Plan for the production phase shall be submitted within one year of initiating site preparation for the drilling. A time extension may be granted by the Planning Commission for good cause shown. The County Petroleum Office shall notify the Planning and Development Department when the one year time period has expired.

   b. If the drilling program is unsuccessful, the well shall be abandoned and the Planning and Development Department shall be notified of the abandonment within one year of initiating site preparation for the drilling. A time extension may be granted by the Planning Commission for good cause shown.
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Sec. 35-320. Reclamation and Surface Mining Permits

Sec. 35-320.1. Purpose and Intent.

The County of Santa Barbara recognizes that the extraction of minerals is essential to the continued economic well-being of the County and to the needs of the society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The County also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specification therefore may vary accordingly. (Amended by Ord. 4098, 5/18/93)

The purpose and intent of this Section is to regulate surface mining operations as authorized by the California Surface Mining and Reclamation Act (SMARA) of 1975 (P.R.C. Sec. 2710 et seq.), hereinafter referred to as SMARA; P.R.C. Section 2207; and the California Code of Regulations adopted pursuant thereto (14 Cal. Admin., C. Sec. 3500 et seq.), to ensure that:

a. The adverse environmental effects of surface mining operations will be prevented or minimized and that the reclamation of mined lands will provide for the beneficial, sustainable long-term productive use of the mined and reclaimed lands; and

b. The production and conservation of minerals will be encouraged while eliminating hazards to public health and safety and avoiding or minimizing adverse effects on the environment, including but not limited to geologic subsidence, air pollution, water quality degradation, damage to biological resources, flooding, erosion, degradation of scenic quality, and noise pollution. (Amended by Ord. 4098, 5/18/93)

Sec. 35-320.2. Definitions. (Added by Ord. 4098, 5/18/93)

For the purpose of Section 35-320, certain words and phrases shall be defined as follows:

Feasible: Means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. (Ref. CEQA Guidelines § 15364)

Haul Road: A road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

Idle: To curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date. (SMARA, Sec. 2727.1)
Minerals: Any naturally occurring chemical element or compound, or groups of elements and compounds formed from inorganic processes and organic substances, including but not limited to coal, peat, bituminous rock, but excluding geothermal resources, natural gas, and petroleum. (State Regulations, Sec. 3501) For the purpose of this Section 35-320, minerals shall also include but not be limited to: sand, gravel, diatomaceous earth, shale, limestone, flagstone, decorative stone, and rip-rap.

Operator: Any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

Overburden: Soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations. (SMARA, Sec. 2732)

Person: Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof. (State Regulations, Sec. 3501)

Surface Mining Operations: All or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to:

(a) Inplace distillation or retorting or leaching.
(b) The production and disposal of mining waste.
(c) Prospecting and exploratory activities. (SMARA, Sec. 2735)

Surface mining operations shall also include the creation of borrow pits, streambed skimming, segregation and stockpiling of mined materials (and recovery of same). (State Regulations, Sec. 3501)

Reclamation: The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures. (SMARA, Sec. 2733)
Sec. 35-320.3. Incorporation of SMARA and State Regulations. (Amended by Ord. 4098, 5/18/93)

The provisions of the California Surface Mining and Reclamation Act of 1975 (P.R.C. Sections 2710 et seq.) P.R.C. Section 2207, and the California Code of Regulations implementing the Act (14 Cal. Admin., Sec. 3500 et seq.), as either may be amended from time to time, are made a part of this paragraph by reference, with the same force and effect as if the provisions therein were specifically and fully set out herein. These regulations shall hereinafter be referred to as the State Regulations. (Amended by Ord. 4098, 5/18/93)

Sec. 35-320.4. Applicability. (Amended by Ord. 4098, 5/18/93)

1. Exemptions. No Conditional Use Permit or Reclamation Plan shall be required for any of the following activities:
   a. Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster. (SMARA, Sec. 2714(a))
   b. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amount of less than 1,000 cubic yards (SMARA, Sec. 2714(b)) in one or more locations or parcels under the control of one operator that do not exceed a total of one acre. A grading permit may be required for extractions or excavations of more than 50 cubic yards per County Ordinance 3937, §14.6.
   c. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose. (SMARA, Sec. 2714(c))
   d. Such other surface mining operations which the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances. (SMARA, Sec. 2714(d))

2. Vested Rights. A Conditional Use Permit shall not be required for any person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with SMARA (SMARA, Sec. 2776). However, a Reclamation Plan shall be required for those portions of such mining operations conducted after January 1, 1976, unless a Reclamation Plan was approved by the County prior to January 1, 1976, and the person submitting that plan has accepted responsibility for carrying...
out that plan. Nothing in this Sec. 35-320 shall be construed as requiring the filing of a Reclamation Plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976. (SMARA, Sec. 2776).

3. Earthwork. Reclamation activities shall be consistent with the appropriate provisions of the County's Grading Ordinance (Chapter 14 of the Santa Barbara County Code), and with other appropriate engineering and geologic standards.

4. Building Officials' Authority to Act to Prevent Engineering Hazards. The issuance of a CUP or approval of a Reclamation Plan shall not prevent the Building Official from thereafter requiring the correction of errors in such permit or Reclamation Plan for earthwork specification, or from preventing surface mining operations or reclamation efforts being carried out thereunder, where the Building Official has determined that a significant engineering hazard threatening public health and safety, or substantial physical damage to off-site property is likely to occur or has occurred as a result of surface mining operations or reclamation efforts. The Building Official, or in his/her absence a designated appointee, may order that correction of earthwork specifications and/or curtailment of activities is required to protect public health and safety, or substantial physical damage to off-site property. Before issuing any correction or curtailment order, the Building Official shall set a time for hearing and shall give written notice of the time and place of the hearing and the engineering hazard to be abated. Such notice shall be given to the operator ten (10) days before the hearing at which time there will be an opportunity for all concerned parties to present evidence. The notice may be served in person or by certified mail.

In the event the Building Official, or in his/her absence the designated appointee, determines there is an imminent danger to the public health and safety resulting from an alleged engineering hazard, he/she may summarily order the necessary curtailment of activities without prior notice and hearing and such order shall be obeyed upon notice of same, whether written or oral. At the same time that notice of the order is conveyed, the Building Official shall set a date, time and place for a publicly noticed hearing and review of said order as soon as possible which date shall be no later than 48 hours after such order is issued or served. Said hearing shall be conducted in the same manner as a hearing on prior notice. After such hearing, the Building Official may modify, revoke, or retain the emergency curtailment order.
An affected person may appeal the Building Official's Order to the Planning Commission within ten (10) calendar days of the date that notice of the Building Official's order is given. Any such notice from the Building Official shall include procedures for appeal of the determination to the Planning Commission and, thereafter, to the Board of Supervisors.

If such appeal is not filed, the Building Official's order becomes final. If there is an appeal, the order of the Building Official shall remain in full force and effect until action is taken by the Planning Commission or, upon appeal, the Board of Supervisors. In the event of an appeal of the Building Official's order, the decision of the Planning Commission or Board of Supervisors shall be a final Administrative Action. Such decision shall not preclude a surface mining operator from seeking judicial relief.

5. Requirement for Conditional Use Permit and/or Reclamation Plan. Unless exempted by the provisions of Sections 35-320.4.1 or 4.2, a Major Conditional Use Permit as provided under Sec. 35-315 and/or a Reclamation Plan shall be required for all surface mining operations in all zone districts, including lead agency approved financial assurances. In all zone districts, a surface mining operation for building or construction material which involves less than a total of 1,000 cubic yards in one or more locations or contiguous parcels under the control of one operator that do not exceed a total of one acre is a permitted use requiring a Land Use Permit pursuant to Section 35-314. and a grading permit per Ordinance 3937.

Sec. 35-320.5. Contents of Applications for Conditional Use Permits for Surface Mining Operations and Reclamation Plans. (Added by Ord. 4098, 5/1893)

1. In addition to the Conditional Use Permit (CUP) application required in Sec. 35-315., all applications for CUP's for surface mining operations shall contain the Supplemental Mining Permit Application required by the Planning and Development Department. As many copies of the CUP and Supplemental Mining Permit Applications as may be required shall be submitted to the Planning and Development Department.

2. As many copies of a Reclamation Plan Application as may be required shall be submitted in conjunction with all applications for CUP's for Surface Mining Operations. For surface mining operations that are exempt from a CUP pursuant to Sec. 35-320.4, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan.
Sec. 35-320.6. Processing. (Amended by Ord. 4098, 5/18/93)

1. Within thirty (30) days of receipt of an application for a Conditional Use Permit for surface mining operations or substantial amendment, and/or a Reclamation Plan, the Planning & Development Department (P&D) shall notify the Director of the Department of Conservation of the filing of the application(s). (SMARA, Sec. 2774(e)) Whenever mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, P&D shall also notify the State Department of Transportation that the application has been received (SMARA, Sec. 2770.5).

In addition, P&D shall promptly forward a copy of the application(s) to each of the County departments represented on the Subdivision Committee for review and recommendations to the Planning Commission. Each of said County departments shall submit a condition letter to the Planning and Development Department and to the Planning Commission as early as possible. Failure by any department to submit such condition letter prior to or during the Planning Commission's hearing on the project shall be deemed a waiver of conditions for approval by that department.

2. After the notifications called for in Section 35-320.6.1 have been made, the Planning and Development Department shall process the application(s) through environmental review.

3. Subsequent to the appropriate environmental review, the Planning and Development Department shall prepare a staff report for consideration by the Planning Commission.

4. The Planning Commission shall hold at least one noticed public hearing on the Conditional Use Permit and/or Reclamation Plan. Notice of the hearing shall be given in accordance with Sec. 35-327. (Noticing).

5. Prior to final approval of a Reclamation Plan, financial assurances (as provided in Sec. 35-320.9), or any amendments thereto, the Planning Commission shall certify to the Director of the Department of Conservation that the Reclamation Plan, financial assurances, or any amendments thereto, comply with the applicable requirements of the State Regulations and submit the plan, assurances, or amendments to the Director of the Department of Conservation for review (SMARA, Sec. 2774(c)). The Planning Commission shall conceptually approve the Reclamation Plan, financial assurances, and any amendments thereto, before submitting it to the Director of the Department of Conservation. If a
Conditional Use Permit is being processed concurrently with the Reclamation Plan, the Planning Commission may also conceptually approve the CUP at this time. However, the Planning Commission may defer action on the CUP until taking final action on the Reclamation Plan, as provided in Sec. 35-320.6.6. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the CUP with the condition that the Planning and Development Department shall not issue the Land Use Permit for the mining operation until financial assurances have been reviewed by the Director of the Department of Conservation and the Planning Commission has taken final action on the Reclamation Plan.

The Director of the Department of Conservation shall have 45 days to prepare written comments on the Reclamation Plan, financial assurances, or amendments thereto, if the Director of the Department of Conservation so chooses (SMARA, Sec. 2774(d)). The Planning Commission shall then hold at least one additional public hearing to evaluate written comments received from the Director of the Department of Conservation during the 45-day comment period. RMD staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the Director of the Department of Conservation's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted (SMARA, Sec. 2774(d)). Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator.

6. The Planning Commission shall then take final action to approve, conditionally approve, or deny the Conditional Use Permit and/or Reclamation Plan. The Planning Commission's action shall be final, subject to appeal to the Board of Supervisors as provided in Sec. 35-327. (Appeals).

7. The Planning and Development Department shall forward a copy of each approved Conditional Use Permit for mining operations and/or approved Reclamation Plan to the Director of the Department of Conservation. P&D shall also forward a copy of the approved financial assurances to the Director of the Department of Conservation for review.
Sec. 35-320.7. Performance Standards for Surface Mining Operations and Reclamation Plans. (Added by Ord. 4098, 5/18/93)

1. Performance Standards for Surface Mining Operations

   All surface mining operations for which a new or revised Conditional Use Permit (CUP) is required shall comply with the requirements contained in SMARA and implementing State Regulations. In addition, the following County performance standards shall apply as may be appropriate to surface mining operations that are subject to a new or substantially revised Conditional Use Permit.

   a. Appearance - Mining operations shall be conducted in a neat and orderly manner, free from junk, trash, or unnecessary debris. Where in public view, salvageable equipment stored in a non-operating condition shall be suitably screened or stored in an enclosed structure.

   b. Noise and Vibration - Noise and ground vibration shall be controlled so as to minimize any disturbance of neighbors. The volume of sound measured outside during calm air conditions, generated by any use on the property shall not exceed sixty-five (65) dB(A)_{LEQ} as measured at the location of the nearest noise sensitive use,(as defined in the County Noise Element) beyond the property boundary of the mining operation.

   c. Traffic Safety -

      1) Parking shall be provided as required in DIVISION 6, PARKING REGULATIONS. Adequate provision shall be made for queuing and loading of trucks.

      2) Haul roads, as defined in Sec. 35-320.2, shall be located away from property lines where possible, except where adjoining property is part of the mining operation. Where processing facilities are not located on the same site as the mining operation, off-site haul routes shall be specified in the permit application. Such haul routes as well as other transport routes from the processing facilities to market destinations shall avoid to the maximum extent feasible, routing through residential neighborhoods.

      3) Number and location of access points to the mining operation shall be specified.
d. Dust Control - During hours of operations, all access roads shall be wetted, protected or contained in such a manner as to minimize the generation of dust.

e. Public Health and Safety -

1) Appropriate measures, including fencing, shall be provided where necessary to provide for public safety. The Planning Commission may require fencing of all or a portion of an excavation. In determining the amount and type of protective measures that are required, the Planning Commission shall take into consideration the extent to which the property upon which the mining operation is located is adequately protected by existing security measures.

2) Where necessary for public safety, the Planning Commission may require that excavations be posted to give reasonable public notice.

3) Any body of water created during operations within the excavation shall be maintained in such manner as to provide for mosquito control and to prevent the creation of health hazards or public nuisance.

4) Any generation of offensive odors or fumes, noxious gases or liquids, heat, glare, or radiation and all other activities shall be conducted in such a manner so as not to be injurious to the health, safety, or welfare of persons residing or working in the neighborhood by reason of danger to life or property.

f. Screening - To the extent feasible, screening or other aesthetic treatments, such as berms, fences, plantings of suitable shrubs and/or trees shall be required, where necessary, to minimize visibility from public view of cut slopes or mining operations, structures and equipment. Mining operations that are visible from scenic highways designated in the Comprehensive Plan, as well as from routes classified as having highest scenic values in the Open Space Element, shall be screened or other aesthetic treatments shall be used to minimize impacts on scenic resources.

g. Protection of Streams and Groundwater Basins - All applications for surface mining operations that could affect streams and/or groundwater basins shall be reviewed as necessary by other agencies as required by law.

h. Annual Reports - Surface mining operators shall forward an annual status report to the Director of the Department of Conservation and the Resource Management
Department on a date established by the Director of the Department of Conservation upon forms furnished by the State Mining and Geology Board (P.R.C. Sec. 2207 (a)-(g)).


All new or substantially amended Reclamation Plans shall conform to the minimum statewide performance standards required pursuant to SMARA Sec. 2773(b), and set forth in CCR 3700 et. sec., regarding wildlife habitat; backfilling, regrading, slope stability, and recontouring; revegetation; drainage, diversion structures, waterways, and erosion control; prime agricultural land reclamation, other agricultural land; building, structure, and equipment removal; stream protection, including surface and groundwater; topsoil salvage, maintenance, and redistribution; and tailing and mine waste management; and closure of surface openings. In addition, the following County standards shall apply as may be appropriate to new or substantially amended Reclamation Plans:

a. Revegetation - All revegetation and/or reestablishment shall be in conformance with an approved Landscaping Plan, pursuant to Sec. 35-289. (General Regulations).

b. Visual Resources - The Reclamation Plan shall, to the extent feasible, provide for the protection and reclamation of the visual resources of the area affected by the mining operation. Measures may include, but not be limited to, resoiling, recontouring of the land to be compatible with the surrounding natural topography, and revegetation and the end use or uses specified by the landowner. Where the mining operation requires the leveling, cutting, removal, or other alteration of ridgelines on slopes of twenty (20) percent or more, the Reclamation Plan shall ensure that such mined areas are found compatible with the surrounding natural topography and other resources of the site.

c. Grading Regulations - All Reclamation Plans shall comply with appropriate provisions of the County's Grading Ordinance (Chapter 14 of the Santa Barbara County Code).

d. Phasing of Reclamation - (See also, Sec. 35-320.11, Interim Management Plans for Idle Mining Operations) - Reclamation Plans shall include a description of and plan for the type of surface mining to be employed and an estimated time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those
portions of the mined lands that will not be subject to further disturbance by the surface mining operation. [SMARA, Sec. 2772(f)]. Where appropriate, interim management may also be required for mined lands that have been disturbed and will be disturbed again in future operations and yet do not qualify as "idle" within the meaning of PRC § 2727.1. Such interim management is for the purpose of minimizing adverse environmental impacts during extended periods of inactivity prior to resumption of mining and ultimate reclamation. Reclamation may be done on an annual basis, or in stages compatible with continuing operations, or on completion of all excavation, removal, or fill as approved by the Planning Commission. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include the estimated beginning and ending dates for each phase, all reclamation activities required, criteria for measuring completion of specific reclamation activities, and estimated costs as provided in Sec. 35-320.9 (Financial Assurances). The Planning Commission shall approve the reclamation schedule.

**Sec. 35-320.8. Findings for Approval** *(Added by Ord. 4098, 5/18/93)*

1. **Surface Mining Operations.**

   In addition to the findings for approval of Conditional Use Permits contained in Sec. 35-315.8., approval of Conditional Use Permits for surface mining operations shall include a finding that the project complies with Section 35-320.7.1. (Performance Standards).

2. **Reclamation Plans.**

   For Reclamation Plans, the following findings shall be required:
   
   a. That the Reclamation Plan complies with applicable requirements of the state regulations (14 Cal. Code Regs. §§3500 et seg.), with appropriate provisions of the County's Grading Ordinance (Chapter 14 of the Santa Barbara County Code), and with other appropriate engineering and geologic standards;

   b. That the Reclamation Plan and potential use of reclaimed land pursuant to the Plan are consistent with the provisions of this Article and the County's Comprehensive Plan.

   c. That, in approving the Reclamation Plan, the required findings under CEQA can be made.
d. That the land and/or resources such as water bodies to be reclaimed will be reclaimed to a condition that is compatible with the surrounding natural environment, topography, and other resources.

e. That the Reclamation Plan will reclaim the mined lands to a usable condition which is readily adaptable for alternative land uses specified by the landowner and consistent with the Comprehensive Plan.

f. That a written response to the Director of the Department of Conservation has been prepared, describing the disposition of major issues raised by the Director of the Department of Conservation. Where the Planning Commission’s position is at variance with the recommendations and objections raised by the Director of the Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted. (SMARA, Sec. 2774(d)

Sec. 35-320.9. Financial Assurances for Reclamation Plans. (Amended by Ord. 4098, 5/18/94)

1. Purpose. The intent of this section is to ensure that reclamation will proceed in accordance with the approved Reclamation Plan.

2. Requirement, Forms, and Amount of Financial Assurances. As a condition of approval of any Reclamation Plan, to assure the operator’s performance, the Planning Commission may require one or more forms of security which shall be released upon satisfactory performance. The applicant may post security in the form of a surety bond, irrevocable letter of credit, a trust fund, or other mechanisms as adopted by the State Board through the regulatory process. Financial assurances shall be made payable to the County of Santa Barbara and the Department of Conservation/ (SMARA, Sec. 2773.1(a)(4)).

Financial assurances may be required to ensure compliance with elements of the Reclamation Plan including but not limited to any revegetation requirements; aquatic or wildlife habitat reclamation requirements; protection of archaeological sites; reclamation of water bodies and water quality; and other mitigation measures. Financial assurances for such elements of the Plan shall be monitored by the Planning and Development Department. Financial assurances to ensure compliance with the applicable provisions of the County’s Grading Ordinance pursuant to Chapter 14 of the Santa Barbara County Code, for such factors as slope stability, and erosion and drainage control, shall be monitored by the Public Works Department. With the consent of the Public Works Department, the Planning and Development Department may act as the lead agency for the purpose of
administering the financial assurances for both departments provided, however, that no operator shall be required to provide more than one financial assurance in favor of the County for the purpose of reclamation.

The amount of the financial assurances shall be based upon the estimated costs of reclamation for each year or other appropriate period stipulated in the Reclamation Plan, including any maintenance of reclaimed areas as may be required. Cost estimates shall be prepared by a licensed engineer and/or other qualified professionals retained by the operator and approved by the Director of Public Works and/or the Director of Planning and Development. Financial assurances for any activities subject to the Grading Ordinance shall be based upon estimates including but not necessarily limited to the volume of earth moved (cubic yards) for each year or other appropriate period of reclamation. Financial assurances to ensure compliance with revegetation, reclamation of water bodies, aquatic or wildlife habitat reclamation requirements, and any other applicable element of the Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, and administration. In reviewing the estimated costs and establishing the amount of the financial assurances, the Public Works and Planning and Development Departments shall work together to ensure that duplication is avoided.

Where reclamation is accomplished in annual increments, the amount of financial assurances required for any one year shall be adjusted annually and shall be adequate to cover the full estimated costs for reclamation of any land projected to be in a disturbed condition from mining operations by the end of the following year. The estimated costs shall be the amount required to complete the reclamation on all areas that will not be subject to further disturbance, and to provide interim reclamation, as necessary, for any partially excavated areas in accordance with the Reclamation Plan. Financial assurances for each year shall be released upon successful completion of reclamation (including any maintenance required) of all areas that will not be subject to further disturbance and upon the operator filing additional financial assurances for the succeeding year. Financial assurances for all subsequent years of the operation shall be handled in the same manner.

Financial assurances for reclamation that is accomplished in multiple-year phases shall be handled in the same manner as described for annual reclamation.
Sec. 35-320.10. Inspections. (Amended by Ord. 4098, 5/18/93)

The Planning and Development Department (P&D) and/or Public Works Department shall conduct an inspection of a surface mining operation within six months of receipt of the annual report (required in Sec. 35-320.7), filed by the mining operator pursuant to PRC § 2207, solely to determine whether the surface mining operation is in compliance with the approved Conditional Use Permit and/or Reclamation Plan, and the State Regulations (SMARA, Sec. 2774 (b)). In no event shall less than one inspection be conducted in any calendar year. Said inspection may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester, or other qualified specialists, as selected by P&D and/or the Public Works Department. All inspections shall be conducted using a form provided by the State Mining and Geology Board. P&D and/or Public Works shall notify the Director of the Department of Conservation within thirty (30) days of completion of the inspection that the inspection has been conducted and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection by Public Works, Planning and Development and their agents.

Sec. 35-320.11. Interim Management Plans. (Added by Ord. 4098, 5/18/93)

Within 90 days of a surface mining operation becoming idle, as defined in Sec. 35-320.2., the operator shall submit to the Planning and Development Department an interim management plan (SMARA, Sec. 2770 (h)). The interim management plan shall fully comply with the requirements of SMARA, Sec. 2770 (h) and shall provide measures the operator will implement to maintain the site in compliance with SMARA, including, but not limited to, all conditions of the Conditional Use Permit and/or Reclamation Plan. The interim management plan shall be processed as an amendment to the Reclamation Plan and shall not be considered a project for the purposes of environmental review (SMARA, Sec. 2770(h)). The idle mine shall comply with the financial assurance for reclamation pursuant to SMARA, Sec. 2770(h).

Within 60 days of receipt of the interim management plan, or longer period mutually agreed upon by the Planning and Development Department (P&D) and the operator, the Planning Commission shall review and approve or deny the plan in accordance with this Sec. 35-320.6.6. The operator shall have thirty (30) days or a longer period mutually agreed upon by the operator and P&D to submit a revised plan. The Planning Commission shall approve or deny the revised interim management plan within sixty (60) days of receipt. If the Planning Commission denies the revised interim management plan, the operator may appeal that action to the Board of Supervisors.
The interim management plan may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the plan for another period not to exceed five years or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

Sec. 35-320.12. Time Limit for Commencement of CUP's for Surface Mining Operations.  
(Added by Ord. 4098, 5/18/93)

The time limit for commencing a surface mining operation that is permitted pursuant to this Section shall be as provided in Sec. 35-315.9.1., Time Limit, Conditional Use Permits.

Sec. 35-320.13. Violations and Penalties. (Added by Ord. 4098, 5/18/93)

If the Planning and Development Department (P&D) or the Public Works Department, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Section 35-320., P&D or Public Works shall follow the procedures set forth in SMARA, Section 2774.1 and 2774.2 concerning violations and penalties.

Sec. 35-320.14. Fees. (Added by Ord. 4098, 5/18/93)

The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Sec. 35-320., and the State Regulations, including but not limited to processing of applications, annual reports, inspections, enforcement and compliance.
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Sec. 35-321. Modifications.
(Added by Ord. 4228, 6/18/96)

Sec. 35-321.1. Purpose and Intent

The purpose and intent of this Section is to allow minor modifications of District setback regulations, parking, height requirements, or zoning development standards where, because of practical difficulties, integrity of design, topography, tree or habitat protection or other similar site conditions, minor adjustments to such regulations, requirements, or standards would result in better design, resource protection, and land use planning.

Sec. 35-321.2. Applicability

1. The provisions of this Section shall apply to specific development proposals allowed pursuant to the Permitted Uses sections in all zone districts, which are not otherwise subject to Conditional Use Permit or Development Plan requirements.

2. In no case shall a Modification, pursuant to this Section, be granted to permit a use or activity which is not otherwise permitted in the District in which the property is situated, nor shall a Modification be granted which alters the procedural or timing requirements of this Article.

3. Modifications may only be granted in conjunction with a specific development proposal and are limited to all of the following:
   a. The total area of each side, front and/or rear yard setback area shall not be reduced by more than twenty percent (20%) of the minimum yard setback area required pursuant to the applicable District regulations.
   b. No setback reduction for buildings and structures, except for unenclosed, attached porches or entryways, shall result in:
      1) A front yard setback depth, as measured from the right of way or easement line of a street or driveway, of less than sixteen and one half (16 1/2) feet.
      2) A side yard setback depth from property lines of less than three (3) feet.
      3) A rear yard setback depth from property lines of less than fifteen (15) feet.
   c. No unenclosed, attached porch or entryway shall result in a front yard setback depth, as measured from the right of way or easement line of a street or driveway, of less than ten (10) feet.
   d. Up to a ten percent (10%) increase in District height regulations.
   e. Up to a ten percent (10%) increase in mandatory Floor Area Ratio (FAR) requirements for buildings originally constructed prior to the adoption of such FAR regulations (e.g., if the required FAR is 0.50 the maximum modification allowed would be 0.55.)
MODIFICATIONS

f. A reduction in the required number and/or a modification in the design, loading zone or location of parking spaces. In no case shall: (1) any required number of bicycle parking spaces be reduced, (2) any Modification of parking requirements be granted, pursuant to this Section for a residential second unit, or (3) any parking or screening requirement Modification be granted for a vehicle with more than two-axles, a recreational vehicle or bus, a trailer or other non-passenger vehicle. *(Amended by City Ord. 03-07, 11/17/2003)*

4. In no case shall a Modification be granted pursuant to this Section for a reduction in landscape, buffer, open space, or other requirements of this Article except as provided above.

Sec. 35-321.3. **Jurisdiction**

The decision-maker for a Modification, pursuant to this Section, shall be the Zoning Administrator, who upon making the findings required under this Section, may approve or conditionally approve Modifications to the regulations applicable to physical standards for land, buildings, and structures contained in this Article, as listed in Section 35-321.2.3.

Sec. 35-321.4. **Contents of Application**

As many copies of a Modification application as may be required shall be submitted to the Planning and Development Department. Said application shall contain full and complete information as required pertaining to the request.

Sec. 35-321.5. **Processing**

1. After receipt of the Modification application, the Planning and Development Department shall process the project through environmental review.

2. The project shall be subject to provisions of Section 35-329 Design Review Board (DRB), and shall normally be scheduled to be heard by the Design Review Board for Preliminary Review and approval only, prior to the project being heard by the Zoning Administrator. The exception to the requirement for DRB review of Modifications is that for projects requesting one or more minor modifications of zoning requirement standards, no DRB review and approval is required if the associated project is exempt from DRB review. *(Amended by City Ord. 07-06, 6/4/2007)*

3. The Zoning Administrator shall hold at least one noticed public hearing on the requested Modification 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. 35-326. (Noticing).

4. The Zoning Administrator, in granting said Modification, may require such conditions as deemed necessary to assure that the intent and purpose of this Article and the public health, safety, and welfare will be promoted.

5. The Zoning Administrator's action is final, subject to appeal to the Board of Supervisors as provided in Sec. 35-327.3. (Appeals)
Sec. 35-321.6. Findings Required for Approval.

A Modification shall only be approved if all of the following findings are made:

1. The project is consistent with the Comprehensive Plan and any applicable Community Plan.

2. The project complies with the intent and purpose of the applicable Zone District(s) including Overlays, this Section and this Article.

3. The Modification is minor in nature and will result in a better site or architectural design, as approved by the Design Review Board, if such DRB review is required, and/or will result in greater resource protection than the project without such Modification. (Amended by City Ord. 07-06, 6/4/2007)

4. The project is compatible with the neighborhood, and does not create an adverse impact to community character, aesthetics or public views.

5. Any Modification of parking or loading zone requirements will not adversely affect the demand for on-street parking in the immediate area.

6. The project is not detrimental to existing physical access, light, solar exposure, ambient noise levels or ventilation on or off site.

7. Any adverse environmental impacts are mitigated to a level of insignificance.

Sec. 35-321.7. Expiration

Unless otherwise specified by conditions of project approval, a Modification shall expire one year from the date of approval if a Land Use Permit has not been issued for the modified building or structure. Prior to the expiration of such time period, the Director may grant one, one year extension from the date of expiration of the Modification, for good cause shown. Once the building or structure has been granted a Land Use Permit, the Modification shall have the same expiration date as the issued Land Use Permit.
MODIFICATIONS

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Sec. 35-322. Emergency Permits.
(Added by Ord. 4319, 6/23/98)

Sec. 35-322.1. Purpose and Intent.

The purpose of this section is to establish procedures for the issuance of Emergency Permits. The intent of this section is to modify the procedures for permit processing, and temporarily bypass the permit requirements of this Article in the case of an emergency.

Sec. 35-322.2. Applicability

When emergency action is warranted, the requirements of obtaining a Land Use Permit or discretionary permit otherwise required by this Article may be temporarily deferred by the Director, and the Director may grant an Emergency Permit prior to a Land Use Permit or other required discretionary permit.

Sec. 35-322.3. Application Procedures.

1. Method: In cases of emergencies applications shall be made to the Director by letter or telefax if time allows, and by telephone or in person if time does not allow.

2. Information required: Applications should contain the following information:
   a) The nature of the emergency;
   b) The cause of the emergency;
   c) The location of the emergency;
   d) The remedial, protective, or preventive work required to deal with the emergency;
   e) Where applicable, the circumstances during the emergency that appeared to justify any course(s) of action undertaken prior to the request for the Emergency Permit, including a description of that course of action and the probable consequences of failing to take action;
   f) The identities of other public agencies alerted to the emergency;
   g) The access routes to the emergency site(s);
   h) The identities of, and means of contact with, the person (s) responsible for, implementing, and directing the emergency action;
   i) The time and date the emergency occurred;
   j) Any other reasonable information which the Director deems necessary to evaluate the application.
EMERGENCY PERMITS

Sec. 35-322.4. Verification of Emergency.

The Director shall verify the facts, including the existence and nature of the emergency, prior to granting the Emergency Permit.

Sec. 35-322.5. Procedure for Granting Permit.

1. A public notice of the emergency work shall be mailed to property owners within 300 feet of the subject property and such notice shall be posted on-site in three locations. Notice is not required to precede commencement of emergency work.

2. The Director may grant an Emergency Permit upon reasonable terms and conditions, including an expiration date, a requirement for a subsequent Land Use Permit, and a requirement for any discretionary permit required by this Article, if the Director finds that:
   a. An emergency exists and requires action more quickly than provided for by the procedures for permit processing; and
   b. The action proposed is consistent with the policies of the Comprehensive Plan and the requirements of the Zoning Ordinance.

3. The action will be completed within 30 days unless otherwise specified by the terms of the permit.

4. The issuance of an Emergency Permit shall not constitute an entitlement to the erection of permanent structures. An application for a Land Use Permit and any discretionary permit required by this Article shall be made no later than 30 days following the granting of an Emergency Permit; any materials required for a completed application shall be submitted within 90 days after the issuance of the emergency permit, unless this time period is extended by the Planning and Development Department.

Sec. 35-322.6. Reporting Requirements of the Director.

1. The Director shall submit a written report to the Board of Supervisors at its first available meeting after the Emergency Permit has been issued, regarding the nature of the emergency and the work involved. Copies of this report shall be available to the public at the meeting and shall be mailed to all persons who have requested such notice in writing.

2. The Director's report shall be informational only; the decision to issue an Emergency Permit is at the sole discretion of the Director, subject to the provisions of Sec. 35-322. Et seq.
Sec. 35-323. Reserved for Future Section.

Sec. 35-324. Reserved for Future Section.