

November 10,
2020

Board of Supervisors

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Oil and Gas Ordinance Amendments Case No. PL20-0052

**Resource Management
Agency, Planning Division
Dave Ward, AICP, Planning
Director**

Overview – Oil and Gas Ordinance



1. Background

- Board of Supervisors' Direction
- Existing Permitting of Oil and Gas Facilities
- Antiquated vs. Modern-era Permits
- Ministerial vs. Discretionary
- Current Zoning Ordinance Provisions

2. Proposed Zoning Ordinance Amendments

- Discretionary Review of New Development
- Types of New Oil and Gas Development
- Applicability of Development Guidelines/Standards
- Vested Rights

3. CEQA & Local Coastal Program Compliance

4. Planning Commission Recommendation

5. General Plan Consistency Analysis



Board of Supervisors' Direction

- **April 9, 2019** - BOS Hearing regarding potential contamination of local groundwater from oil and gas operations.
- **February 25, 2019** - USGS report of petroleum gases in Fox Canyon aquifer.



Board of Supervisors' Direction

- **April 9, 2019** - Board Hearing regarding potential contamination of local groundwater from oil and gas operations.
- **February 25, 2019** - USGS report of petroleum gases in Fox Canyon aquifer.
Board approved a moratorium new steam injection wells on portion of Oxnard Plain.
- **September 10, 2019** – Board directed staff to prepared draft amendments to zoning ordinances to require discretionary approval of new development under antiquated oil and gas permits.



Existing Permitting of Oil and Gas Facilities

- Oil & Gas exploration established in mid-1800's
- First zoning ordinance in 1947 (special use permits)
- Approximately 120 active CUPs out of ~800 existing



Antiquated Permits

- Continuations of pre-1947 facilities
- Pre-CEQA
- Vast areas with numerous leases and 100's of wells
- Vague descriptions without set limits
- No expiration dates

Modern Era Permits

- Limits on number of wells
- Defined development areas
- Environmental review





Ministerial vs. Discretionary

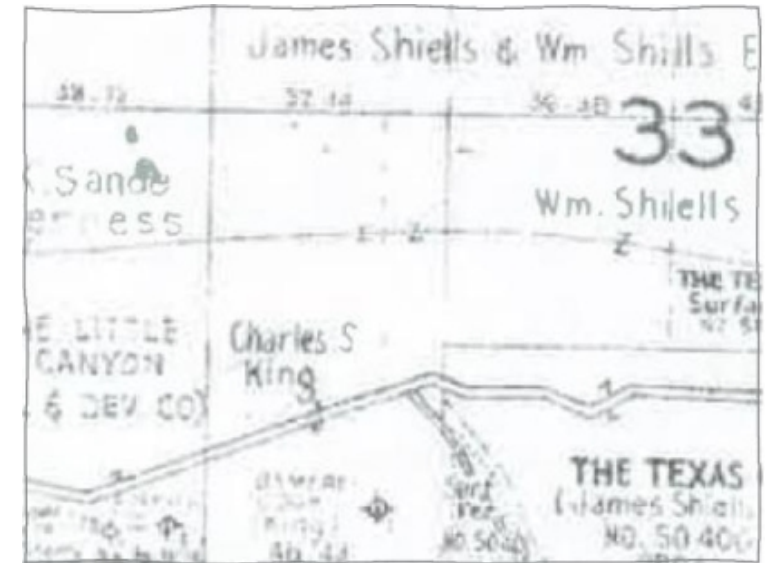
- **Ministerial**: fixed standards / objective measurements
 - o E.g., building permits and Final maps
- **Discretionary**: exercise of judgement / deliberation
 - o E.g., use permits and tentative maps



Current Zoning Ordinance

Provisions:

- Entirely new oil & gas development = *discretionary*
- Changes to modern-era permits = *discretionary*
- Changes or new development under antiquated permits = *ministerial* or *unclear*
 - No specified limits within CUP
 - CUP status (active/dormant) not clear
 - Overlapping CUP boundaries
 - Terms of mineral leases linked to permits



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Proposed Zoning Ordinance Amendments

Proposed Zoning Ordinance



Discretionary Review of New Development

- Amend NCZO section 8107-5.2, and CZO section 8175-5.7.2

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- Unless the new development is already specifically described as authorized under existing CUP ... must obtain applicable discretionary permit:

- o New CUP
- o Modified CUP
- o Permit Adjustment

***Requires CEQA
review
and consistency
with
current standards***



Types of New Oil and Gas Development

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- Installation of new well
- Installation of tanks and other oil field facilities
- Re-drilling or deepening of existing wells

Proposed Zoning Ordinance



Applicability of Guidelines / Standards

Examples of current oil and gas development design guidelines and operational standards that would apply.

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- o Well and equipment siting
- o Pipeline installation
- o Grading
- o Lighting
- o Waste handling
- o Noise
- o Site maintenance
- o Site restoration

Proposed Zoning Ordinance Amendments



Applicability of Vested Rights?

A vested right only exists, and thus could only be unlawfully impaired, if a new governmental regulation would prevent the completion of construction or use of facilities that are specifically described and authorized in an existing County permit or other land use entitlement.

Proposed Zoning Ordinance Amendments



Non-Substantive Revisions

- Limit the level of new development per Zoning Clearance (due to 180-day timeframe) **Evaluation only.**
- Clarify existing provisions
- Ensure consistent terminology

Sec. 8107-5.5 - Oil Development Design Guidelines

Sec. 8107-5.6 - Oil Development Operational Standards

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CEQA and Local Coastal Program Compliance

CA Environmental Quality Act



The proposed Zoning Ordinance Amendments are categorically exempt from CEQA pursuant to Section 15308:

- An action by a regulatory agency to assure maintenance or protection of the environment "where the regulatory process involves procedures for protection of the environment."



Coastal Act and Local Coastal Program



The proposed Zoning Ordinance Amendments are consistent with the CA Coastal Act but will require amendment to the Local Coastal Program. Consistency analysis provided in Exhibit 8.

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Recommendations from Coastal Commission



Sec. 8175-5.7.4 - Prohibition

...and on land in any “residential” or “recreational” designation on the LCP Land Use Plan, or ~~shown~~ identified as ~~an~~ environmentally sensitive habitat or buffer area.

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Sec. 8175-5.7.5.b - Required Permits

A single Zoning Clearance may be issued for more than one well, drill site, structure or appurtenance; however, the construction or installation of each separate improvement that is a subject of a Zoning Clearance must reasonably be able to commence within

180 days in order to be authorized by the Zoning Clearance or a new Zoning Clearance shall be required.

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Planning Commission Recommendation



Public Hearing Comments:

- ☐ 3 in-person public comments
- ☐ 13 public comments submitted via email and read into the record
- ☐ 10 public comments via Zoom
- ☐ 59 unique comment letters
- ☐ 3 form letters (submitted by 188, 243, and 20 individuals for a total of 451 form letter commenters)



Opposition to Ordinance Amendments:

- Concern about the zoning ordinance amendments' economic impact to the oil and gas industry with its higher wage jobs and impacts to the larger county economy, particularly in light of the pandemic's negative impact on the entire economy;
- Questions regarding status of the USGS study;
- Concern that the zoning ordinance amendments would take private property rights and lead to litigation against the County; and
- Concern that property owners would lose oil and gas royalties based on claim that existing operators would be required to shut down.



Support for Ordinance Amendments:

- Location of many oil and gas facilities in sensitive areas where environmental review and protections are needed;
- Value of the zoning ordinance amendment to require discretionary review, including the requirement for environmental review and a public hearing; and
- Need to address climate change impacts.

Planning Commission Recommendation



Recommendation For CEQA Actions and Amendment to Ordinances (4-1 Vote)

Direct Planning Division Staff to consider the comments from the Coastal Commission and modify the changes to the Coastal Zoning Ordinance:

1. Incorporate change to CZO Sec. 8175-5.7.4 – Prohibition (*replace “shown” with “identified”*)
2. Incorporate change to CZO Sec. 8175-5.7.5.b - Required Permits (*adding “new Zone Clearance required”*)
3. Staff to evaluate and recommend to the Board of Supervisors potential revision to CZO Sec. 8175-5.7.2.c.3(c) – Application (*to narrow scope of “maintenance and repair”*)
4. Staff to evaluate and recommend to the Board of Supervisors potential revision to CZO Sec. 8175-5.7.5.b - Required Permits (*to insert “adding or replacing*

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General Plan Consistency Analysis

Ordinance Consistency with General Plan



2040 General Plan Vision:

Ventura County is an exceptional place to live, work, and play. Our quality of life and economic vitality are rooted in the stewardship of our cultural and natural resources, including agricultural lands and soils, open spaces, mountains, beaches, and talented people. The General Plan reflects the County's ongoing commitment to collaborate with residents, cities, businesses, and non-profit organizations to meet our social and economic needs in a sustainable manner, to protect the environment and address climate change, and to encourage safe, healthy, vibrant, and diverse communities to thrive.

Ordinance Consistency with General Plan



General Plan Guiding Principles (3 of 12):

Conservation and Open Space Guiding Principle to conserve and manage the County's open spaces and natural resources, including soils, water, air quality, minerals, biological resources, scenic resources, as well as historic and cultural resources.

Economic Vitality Guiding Principle to foster economic and job growth that is responsive to the evolving needs and opportunities of the County's economy and preserves land use compatibility with Naval Base Ventura County and the Port of Hueneme, while enhancing our quality of life and promoting environmental sustainability.

Hazards and Safety Guiding Principle to minimize health and safety impacts to residents, businesses and visitors from human-caused hazards such as hazardous materials, noise, air, sea level rise, and water pollution, as well as managing lands to reduce the impacts of natural hazards such as flooding, wildland fires, and geologic events

Ordinance Consistency with General Plan



General Plan Element Policies:

- Agricultural Policies
- Circulation, Transportation and Mobility Policies
- Water Resources Policies
- Public Facilities, Services and Infrastructure Policies
- Conservation and Open Space Policies
- Hazards and Safety Policies

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Ordinance Consistency with General Plan



Economic Vitality Element:

- **EV-1.1** Economic Vitality Strategic Plan
- **EV-1.2** County Investment Priorities
- **EV-1.6** Economic Expansion
- **EV-1.7** Supporting Industries Fitting County Needs
- **EV-3.1** Existing Business Retention
- **EV-3.3** Facilitate Expansion of Key Economic Clusters
- **EV-3.5** Entrepreneurial Development and Key Industry Attraction
- **EV-4.3** Sustainable Business Development
- **EV-6.7** Future Job Opportunities

Ordinance Consistency with General Plan



Economic Vitality Element:

EV-1.2 County Investment Priorities

The County shall prioritize investment in infrastructure, services, safety net programs and other assets that are critical to future economic vitality, including public safety, healthcare, library services, water supply and quality, transportation, energy, and environmental resources. This investment shall consider equity in investment opportunities to designated disadvantaged communities, including designated Opportunity Zones under the federal Tax Cuts and Jobs Act of 2017. The focus of these efforts shall be to improve social equity and opportunity for all.

EV-4.3 Sustainable Business Development

The County shall encourage the development and expansion of businesses that advance social equity, environmental quality, and economic sustainability, as well as capitalize on key industry strengths. Economic sustainability includes planning and preparation for disaster response and long-term resiliency of businesses and economic assets in the county.



Economic Vitality Element:

EV-1.1 Economic Vitality Strategic Plan

The County shall use the Ventura County Economic Vitality Strategic Plan, as updated, as an operational guide to implement the economic development goals, policies, and programs of the General Plan.

Goal 3: leverage the County's investments in economic vitality through public- and private-sector partnerships

Goal 4: prioritize County investment in capital projects that facilitate quality economic growth
Goal 5: provide excellent customer service to the public and a business-friendly environment

Goal 1: foster targeted economic growth that supports the County's commitment to quality of life and environmental sustainability.

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Recommended Actions

Planning Division - Oil & Gas Program Staffing



- Increase in Discretionary Permitting Activity requires 1 additional staff

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Summary of Revenue and Costs		FY 2020-21	FY 2021-22
Revenues:		\$ 82,500	\$ 125,000
Costs:			
Direct		\$ 82,500	\$ 125,000
Indirect – Department		\$ -	\$ -
Indirect Costs		\$ -	\$ -
		\$ 82,500	\$ 125,000
Net Costs		\$ -	\$ -
Recovered Indirect Costs		\$ -	\$ -

- Requires Board authorization – 4/5ths Vote

Recommended Actions



1. **CERTIFY** that your Board has reviewed and considered this Board letter, the staff report for the July 30, 2020 Planning Commission hearing (hereinafter, Planning Commission staff report) regarding the project and all exhibits thereto (Exhibits 1 through 28), and has considered all comments received during the public hearing process;

Recommended Actions



2. **FIND** on the basis of the entire record including the Planning Commission staff report (Exhibit 1) that the adoption of the proposed ordinance amending the Ventura County Non-Coastal Zoning Ordinance (Exhibit 32) is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15308 as actions by a regulatory agency to assure the maintenance and protection of the environment because the project would implement a regulatory process involving procedures for protection of the environment; **FIND** that no substantial evidence exists precluding the use of this categorical exemption based on the presence of unusual circumstances or any other exception set forth in CEQA Guidelines section 15300.2; and **FIND** that adoption of the proposed ordinance amending the Ventura County Coastal Zoning Ordinance (Exhibit 33) is statutorily exempt pursuant to Public Resources Code section 21080.9 as an amendment to the County's Local Coastal Program;

Recommended Actions



3. **FIND** on the basis of the entire record and as set forth in the Planning Commission staff report (Exhibit 1) and Ventura County General Plan consistency analysis (Exhibit 36) that the proposed ordinance amending the Ventura County Non-Coastal Zoning Ordinance (Exhibit 32) is consistent with the goals, policies and programs of the Ventura County General Plan and good planning practices and is in the interest of public health, safety and general welfare;
4. **FIND** on the basis of the entire record and as set forth in the Planning Commission staff report (Exhibit 1) that the proposed ordinance amending the Ventura County Coastal Zoning Ordinance (Exhibit 33) is consistent with the goals, policies and programs of the Ventura County General Plan, the Ventura County Coastal Area Plan, the Coastal Act (Exhibit 8) and good planning practices, and is in the interest of public health, safety and general welfare;

Recommended Actions



5. **ADOPT** the proposed ordinance amending Ventura County Non-Coastal Zoning Ordinance Section 8107-5 (Exhibit 32);
6. **ADOPT** the proposed ordinance amending Ventura County Coastal Zoning Ordinance Section 8107-5 (Exhibit 33) subject to California Coastal Commission certification, and **ADOPT** a resolution (Exhibit 37) directing submittal of the ordinance to the California Coastal Commission for certification of this proposed amendment to the Ventura County Local Coastal Program;
7. **SPECIFY** the Clerk of the Board of Supervisors at 800 S. Victoria Avenue, Ventura, CA 93009 as the custodian and location of the documents and materials that constitute the record of proceedings upon which the foregoing actions and decisions are based;

Recommended Actions



8. **ADOPT** a resolution establishing one regular full-time position allocation in the Resource Management Agency Planning Division, Budget Unit 2911, effective November 29, 2020 (Exhibit 38) as follows:

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Class Code	Classification Title	FTE	Range	Annual Salary	Unit
00805	Planner III	1	\$33,718.39 - \$47,382.09	\$70,134.25 - \$98,554.76	2911



9. **AUTHORIZE** the Auditor-Controller to process the necessary accounting transactions to Budget Unit 2911 to adjust appropriations and revenue as follows for FY 2020-21 (requires 4/5ths vote): RMA Planning Division Permitting (Unit 2911)

INCREASE 2900-2911	Salaries and Benefits	\$85,000
INCREASE 2900-2911	Charges for Services	\$85,000

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Questions

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