



Nonconforming Status and Extent of Damage Determination

Hardship Determination

A NONCONFORMING STATUS AND EXTENT OF DAMAGE DETERMINATION (MIS) is a determination by the County Zoning Administrator of the nonconforming status of and extent of damage to a structure that is damaged or destroyed by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.

A HARDSHIP DETERMINATION (MIS) is a determination by the County Zoning Administrator or the Montecito Planning Commission that the adverse impact upon the neighborhood created by the continued existence of the nonconforming use or structure or other development would be less than the hardship which would be suffered by the owner of the nonconforming use or structure or other development should restoration or reconstruction be denied.

THIS PACKAGE CONTAINS _____

- Submittal Requirements and Details
- Application
- Indemnification Agreement

AND, IF ✓'D, ALSO CONTAINS _____

- Agreement For Payment Of Processing Fees

[Click to download Agreement to Pay form](#)

South County Office
123 East Anapamu Street
Santa Barbara, CA 93101
Phone: (805) 568-2000
Fax: (805) 568-2030

North County Office
624 West Foster Road, Suite C
Santa Maria, CA 93455
Phone: (805) 934-6250
Fax: (805) 934-6258

**SUBMITTAL REQUIREMENTS FOR
NONCONFORMING STATUS AND EXTENT OF DAMAGE DETERMINATION
and HARDSHIP DETERMINATION**

- _____ 3 Copies of completed application form.
- _____ 3 Copies of site plan showing all existing and proposed structures.
[Click to download Site Plan and Topographical Map Requirements](#)
- _____ 1 Agreement to Pay Form
[Click to download Agreement to Pay form](#)
- _____ 1 Check Payable to Planning & Development



**PLANNING AND DEVELOPMENT DEPARTMENT
NONCONFORMING STATUS AND EXTENT OF DAMAGE DETERMINATION
HARDSHIP DETERMINATION**

SITE ADDRESS: _____

ASSESSOR PARCEL NUMBER: _____

PARCEL SIZE (acres/sq.ft.): Gross _____ Net _____

ZONING: _____

COMPREHENSIVE/COASTAL PLAN DESIGNATION: _____

1. **Financially Responsible Person** _____ Phone: _____ FAX: _____
(For this project)

Mailing Address: _____
Street City State Zip

2. **Owner:** _____ Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

3. **Agent:** _____ Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

4. **Arch./Designer:** _____ Phone: _____ FAX: _____

Mailing Address: _____ State/Reg Lic# _____
Street City State Zip

5. **Engineer/Surveyor:** _____ Phone: _____ FAX: _____

Mailing Address: _____ State/Reg Lic#: _____
Street City State Zip

6. **Contractor:** _____ Phone: _____ FAX: _____

Mailing Address: _____ State/Reg Lic#: _____
Street City State Zip

I hereby certify to the best of my knowledge, the information contained in this application and all attached materials are correct, true and complete.

Signature

Print name/date

COUNTY USE ONLY

Case Number: _____ Submittal Date: _____ Supervisorial District: _____

Applicable Zoning Ordinance: _____ Project Planner: _____

Submittal Documents Complete?: _____ Yes/Date: _____ No/Date _____

Exemption Approved: Exemption # _____ Date Issued _____

Exemption Denied (Attach Findings): _____ Date _____

PROJECT INFORMATION

This application is required to either:

- Reconstruct a damaged or destroyed nonconforming non-residential structure or re-establish a damaged or destroyed nonconforming non-residential use, on property located outside the Coastal Zone and the Montecito Planning Area; or,
- Reconstruct a damaged or destroyed nonconforming non-residential structure or re-establish a damaged or destroyed nonconforming non-residential use, on any property where the extent of damage is greater than 75 percent of the replacement value of the structure or use.

The County Land Use and Development Code (Section 35.82.140, Attachment 1) requires for property located outside of the Coastal Zone and the Montecito Planning Area that prior to the (1) reconstruction of a damaged or destroyed nonconforming structure or (2) re-establishment of a damaged or destroyed nonconforming use that the County Zoning Administrator first determine that the structure or use is nonconforming and the extent to which it has been damaged or destroyed.

The County Land Use and Development Code (Section 35.82.100, Attachment 2) and the Montecito Land Use and Development Code (Section 35.472.100, Attachment 3) require that prior to the reconstruction of a structure or re-establishment of a use that has been damaged to an extent that is greater than 75 percent of the replacement value of the structure or use that the County Zoning Administrator or the Montecito Planning Commission determine that the adverse impact upon the neighborhood created by the continued existence of the nonconforming use or structure or other development would be less than the hardship which would be suffered by the owner of the nonconforming use or structure or other development should restoration or reconstruction be denied.

If the subject property is located both outside the Coastal Zone and the Montecito Planning Area then you will need to complete Section A (Nonconforming Status and Extent of Damage Determination) of this application. Otherwise you may skip to Section B (Hardship Determination). Please feel free to attach additional pages as necessary.

SECTION A - NONCONFORMING STATUS AND EXTENT OF DAMAGE DETERMINATION

1. Project description summary. Please provide a description of all work that will occur if this application is approved.

2. Historical situation. Please describe the previous nonconforming structure or use, including square footage, height, location, use and any other pertinent facts. Include the year the structure was constructed and/or the use was commenced.

CERTIFICATE OF ACCURACY AND COMPLETENESS: Must be signed by the owner or authorized agent before a permit can be accepted for processing by the County of Santa Barbara. Signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Print Name Circle One: Owner Agent

Signature Date

And

I hereby authorize _____ to represent me before Santa Barbara County in all matters related to this application.

Print Name (Owner)

Signature Date

Or

Print Name (Licensed Contractor) License Number

Signature

Date

I understand and agree that submission of plans for building/grading plan check for the above mentioned property is not a guarantee of approval and if the project is denied by the Planning & Development Department, my advance plan check fee of \$_____ is non-refundable.

Applicant's Signature

Date

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ATTACHMENT 1

Land Use & Development Code Section 35.82.140

Processing procedure is established in compliance with the County Land Use and Development Code Section 35.82.140 as follows:

35.82.140 - Nonconforming Status and Extent of Damage Determinations

- A. Purpose and intent.** This Section provides procedures and findings to allow for determining the nonconforming status of and extent of damage to a structure that is damaged or destroyed by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.
- 1. Toro Canyon Plan Area.** This Section also provides procedures and findings to allow the repair or reconstruction of one nonconforming private detached garage on a lot located within the Toro Canyon Plan Area in compliance with Subsection 35.101.030.B.5 (Sites within Toro Canyon Plan Overlay) that is damaged or destroyed by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.
- B. Applicability.** The provisions of this section shall apply to all nonconforming uses, structures or other development when required in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).
- C. Contents of application.** An application for a Nonconforming Status and Extent of Damage Determination shall be filed and processed in compliance with Chapter 35.80 (Permit Application Filing and Processing).
- D. Processing.**
1. The Zoning Administrator shall hold at least one noticed public hearing on the requested Nonconforming Status and Extent of Damage Determination and approve, conditionally approve, or deny the request.
 2. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 35.106 (Noticing and Public Hearings).
 3. The Zoning Administrator, in approving the Nonconforming Status and Extent of Damage Determination, may require conditions as deemed reasonable and necessary to ensure that the intent and purpose of this Development Code and the public health, peace, safety, and general welfare would be promoted.
 4. The action of the Zoning Administrator is final and not subject to appeal.
- E. Finding required for approval.** A Nonconforming Status and Extent of Damage Determination application shall be approved or conditionally approved only if the Zoning Administrator first finds that there is sufficient evidence to establish that the subject structure is nonconforming and that the extent of damage is such that the reconstruction or repair is allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).
- 1. Additional finding for Nonconforming Status and Extent of Damage Determinations in the Toro Canyon Plan Area.** If the Nonconforming Status and Extent of Damage Determination application involves repair or reconstruction of a private detached garage, the Zoning Administrator shall also find that there is sufficient evidence to establish that the structure was used as a private garage prior to the damage or destruction by earthquake, fire, flood vandalism or other calamity beyond the control of the owner of the structure.

ATTACHMENT 2

Land Use & Development Code Section 35.82.100

Processing procedure is established in compliance with the County Land Use and Development Code Section 35.82.100 as follows:

35.82.100 - Hardship Determinations

- A. Purpose and intent.** This Section provides procedures and findings to allow for the granting of Hardship Determinations to allow the restoration of nonconforming uses or the reconstruction of nonconforming structures. The intent is to allow such restoration or reconstruction only when the adverse impact upon the neighborhood created by the continued existence of the nonconforming use or structure or other development would be less than the hardship which would be suffered by the owner of the nonconforming use or structure or other development should restoration or reconstruction be denied.
- B. Applicability.** The provisions of this Section shall apply to all nonconforming uses and structures.
- C. Contents of application.** An application for a Hardship Determination shall be submitted in compliance with Chapter 35.80 (Permit Application Filing and Processing).
- D. Processing.**
1. The Zoning Administrator shall hold at least one noticed public hearing on the requested Hardship Determination and approve, conditionally approve, or deny the request.
 2. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 35.106 (Noticing and Public Hearings).
 3. The Zoning Administrator, in approving the Hardship Determination, may require conditions as deemed reasonable and necessary to ensure that the intent and purpose of this Development Code and the public health, peace, safety, and general welfare would be promoted.
 4. The action of the Zoning Administrator is final and not subject to appeal.
- E. Finding required for approval.** A Hardship Determination application shall be approved or conditionally approved only if the Zoning Administrator first finds that the adverse impact upon the neighborhood created by the continued existence of the nonconforming use or structure or other development would be less than the hardship which would be suffered by the owner of the nonconforming use or structure or other development should restoration or reconstruction be denied.
1. **Additional finding required for sites within the Toro Canyon Plan Area.** A Hardship Determination application submitted in compliance with Subsection 35.101.030.B.5 (Sites within the Toro Canyon Plan Area) shall be approved only if the Zoning Administrator first also finds the public health and safety will not be jeopardized in any way by such reconstruction or structural repair.

ATTACHMENT 3

Montecito Land Use and Development Code Section 35.472.100

Processing procedure is established in compliance with the Montecito Land Use and Development Code Section 35.472.100 as follows:

35.472.100 - Hardship Determinations

- A. Purpose and intent.** This Section provides procedures and findings to allow for the granting of Hardship Determinations to allow the restoration of nonconforming uses or the reconstruction of nonconforming structures. The intent is to allow such restoration or reconstruction only when the adverse impact upon the neighborhood created by the continued existence of the nonconforming use or structure or other development would be less than the hardship which would be suffered by the owner of the nonconforming use or structure or other development should restoration or reconstruction be denied.
- B. Applicability.** The provisions of this Section shall apply to all nonconforming uses and structures.
- C. Contents of application.** An application for a Hardship Determination shall be submitted in compliance with Chapter 35.470 (Permit Application Filing and Processing).
- D. Processing.**
1. The Montecito Commission shall hold at least one noticed public hearing on the requested Hardship Determination and approve, conditionally approve, or deny the request.
 2. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 35.496 (Noticing and Public Hearings).
 3. The Montecito Commission, in approving the Hardship Determination, may require conditions as deemed reasonable and necessary to ensure that the intent and purpose of this Development Code and the public health, peace, safety and general welfare would be promoted.
 4. The action of the Montecito Commission is final and not subject to appeal.
- E. Finding required for approval.** A Hardship Determination application shall be approved or conditionally approved only if the Montecito Commission first finds that the adverse impact upon the neighborhood created by the continued existence of the nonconforming use or structure or other development would be less than the hardship which would be suffered by the owner of the nonconforming use or structure or other development should restoration or reconstruction be denied.