



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and
Development (P&D)
Department No.: 053
For Agenda Of: January 24, 2023
Placement: Departmental
Estimated Time: 1 Hour
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Lisa Plowman, (805) 568-2068
Director(s)
Contact Info: Travis Seawards, (805) 568-2518

SUBJECT: Multi-Unit and Mixed-Use Development Objective Development Standards
Ordinance Amendments

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions: That on January 24, 2023, the Board consider the County Planning Commission recommended ordinance amendments to the County Land Use and Development Code (LUDC), to amend Chapter 35, Article 35.3 of the Santa Barbara County Land Use and Development Code (LUDC), to provide a streamlined ministerial review process to implement State housing laws and to provide objective design standards for multiple-unit and mixed-use development for housing projects. On January 24, 2023, the Board's actions should include the following:

- a) Make the required findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1);
- b) Determine the ordinance amendments (Attachment 3, Case No. 22ORD-00000-00010) are exempt from the provisions of CEQA pursuant to Section 15061(b)(3) of the State Guidelines for the Implementation of CEQA (Attachment 2); and
- c) Adopt the ordinance to amend the LUDC (Attachment 3, Case No. 22ORD-00000-00010).

Summary Text:

This ordinance amendment package will: 1) implement a streamlined application review process for “qualifying streamlined housing projects” under Senate Bill 35 and 2) provide objective design standards for multiple-unit residential and mixed-use housing development, including those for which the County may require compliance with “objective” standards under applicable State housing law.

SB 35 Streamlined Process

Senate Bill 35 (SB 35), which was part of a housing bill package aimed at addressing the State’s housing shortage and high housing costs, further restricts local governments’ discretion in reviewing qualifying affordable multifamily housing projects, defined by state law. Specifically, SB 35 requires local governments that have not yet made sufficient progress towards their allocation of the regional housing need to provide a streamlined, ministerial approval process for qualifying multifamily housing projects. The intent of SB 35 is to facilitate and expedite the construction of housing.

Qualifying SB 35 projects must satisfy an extensive list of criteria, such as affordability levels (currently 50 percent of units must be affordable to lower income households), labor standards, and conformance with a jurisdiction’s objective General Plan and zoning standards. In addition, SB 35 and other related State housing laws provides for local jurisdictions to create and implement objective design standards for qualifying multi-unit and mixed-use development projects, subject to the ministerial approval requirements and definitions for objective design standards as laid out in the law, as follows:

- “Ministerial processing” or “ministerial approval” means a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards," "objective subdivision standards," and "objective design review standards" in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.
- “Objective zoning standard”, “objective subdivision standard”, and “objective design review standard” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official prior to submittal, and includes only such standards as are published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application.

SB 35 applies to the County at this time and the LUDC currently does not accommodate the required streamlined, ministerial approval process. Instead, the LUDC’s current process for the review of housing development projects includes Design Review by a Board of Architectural Review (BAR) in certain locations, which is subjective in nature, and other qualifying housing projects are at times subject to discretionary permits by County ordinances, which is also not an objective, ministerial approval process. The proposed ordinance amendments implement procedures for a streamlined ministerial review process of qualifying projects under SB 35.

Objective Design Standards

The objective design standards proposed in this ordinance amendment package have been prepared in response to the numerous changes in state law such as amendments to the Housing Accountability Act, SB 330 (Government Code Section 65589.5), SB 35 (California Government Code Section 65913.4), and AB 2162 (California Government Code Section 65651) which limit the County's ability to require compliance with subjective development or design standards. The existing objective standards in the County's LUDC are very limited (e.g., setbacks, height, parking, lot coverage). The proposed ordinance significantly expands and establishes generally-applicable objective design standards for multiple-unit residential and mixed-use development projects with the intent that these standards will continue to apply to such housing projects where State housing law has restricted or eliminated the County's discretionary review authority. However, the ordinance is not intended to restrict the County's discretionary review authority over these projects to the extent the County retains such discretion under State housing law. Because these standards are new, the County will be revisiting and refining them over time to ensure these standards are effective and result in high quality developments.

Additionally, these proposed additional objective design standards will only apply within the Inland Area governed by the LUDC, outside the Montecito Community Plan Area and Coastal Zone. In the future, these standards will be incorporated into the Montecito LUDC and the Coastal Zoning Ordinance.

The intent of these amendments is allow for the necessary development of new housing units in the County and to provide clear design direction that enhances an area's unique character and sense of place, respects neighborhood compatibility and privacy, and ensures a high-quality of living environment. As noted above, the proposed objective design standards will apply to multiple-unit residential and mixed-use development in all Zone Districts, including such development that constitutes a "housing development project" under California Government Code Section 65589.5 (Housing Accountability Act), qualifying "multifamily housing development" under California Government Code Section 65913.4 (SB 35), and "supportive housing" under California Government Code Section 65651 (AB 2162).

The ordinance amendments also provide that multi-unit and mixed-use projects that are subject to the ordinance, which comply with all applicable objective design review standards, shall not be subject to separate Design Review approval under the LUDC. This exemption will avoid design review hearings on projects where the County's discretionary review authority has been curtailed while ensuring that basic design review requirements remain applicable to such projects. It will also assist the County in meeting streamlined review requirements under State housing law.

The ordinance amendments are consistent with the requirements of the Housing Accountability Act (HAA) (Government Code Section 65589.5) and other recently enacted State housing laws that have restricted the County's discretion in reviewing and conditioning housing development projects. The HAA restricts the ability of local governments to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with local general plan, zoning, and design review standards that are "objective".

The proposed, draft ordinances to implement these changes to the LUDC are included as Attachments 3.

Background:

Proposed Amendments

The proposed Ordinance includes two new Chapters of the County Land Use Development Ordinance (LUDC). The new Chapters are Chapter 35.31 – Affordable Housing Streamlined Review and Chapter 35.33 – Multiple-Unit and Mixed-use Housing Objective Design Standards.

The proposed Chapter 35.31 includes sections that set forth procedures to implement SB 35 to provide for a streamlined ministerial review process for qualifying housing development projects. The proposed permit required for qualifying projects is a Zoning Clearance. Qualifying projects are ministerially approved, and therefore qualifying projects will be statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15268. All such qualifying projects will be subject to review and approval by the Director.

The proposed Chapter 35.33 that addresses objective design standards includes five sections that are described below.

- **Section 35.33.010 – Purpose and Intent** includes subsections for the Purpose, Intent and Applicability of the proposed ordinance.
- **Section 35.33.020 – Building Design** includes subsections for “Building Form, Massing, and Articulation,” “Building and Dwelling Unit Entrances,” “Windows and Doors,” “Materials and Color,” “Parking Structures,” and “Garages and Carports.” In general, Building Design Standards focus on requirements for multi-level development, building façade, roof, window, materials and other architectural development standards
- **Section 35.33.030 – Site Design** includes subsections for “Building Placement and Orientation,” “Vehicular Parking and Access,” “Pedestrian and Other Non-Vehicle Forms of Mobility Circulation and Access,” “Common and Restricted Open Space,” and “Landscaping.” In general, Site Design standards focus on new building orientation to the street, detail where parking areas can be located, describe required open or common space requirements, and provide standards on landscaping, such a requiring drought-tolerant native species.
- **Section 35.33.040 – Mixed-use Standards** includes subsections for “Ground Floor Height,” “Ground Floor Transparency,” “Street-Facing Setbacks,” and “Street-Facing Entrance.” In general, Mixed-use Development Standards focus on specific site, building, and architectural design for mixed-use projects and include details on ground floor and entry requirements, bicycle parking, and walls and fences.
- **Section 35.33.050 – Utilitarian Elements** include subsections the provide objective standards for “Bicycle Parking”, “Trash, Recycling, and Green Water Container Enclosures”, “Fences and Wall”, “Lighting”, and “Screening of Mechanical Equipment”. Most of these sections identify objective standards already contained in the LUDC.
- **35.33.060 – Definitions** include definitions that relate to the objective standards found in the Sections above.

Environmental Review

The proposed amendments to the LUDC exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines for Implementation of the CEQA. Section 15061(b)(3) states “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” As explained further in Attachment B, the ordinance establishes objective design criteria for multiple-unit residential and mixed-use development with the intent of ensuring some level of County control over project design where County review is otherwise restricted under State law. It can be seen with certainty that implementation of these basic design requirements would not result in significant environmental impacts.

Planning Commission Recommendation

On January 11, 2023, the County Planning Commission voted 5-0 to recommend the Board adopt LUDC ordinance amendments, with a recommended change to the ordinance. The revision clarified that the ordinance does not limit the County’s discretion to condition the approval of multi-unit residential and mixed used development projects, to the fullest extent authorized under State housing law and the code. (Attachment 3).

The amendments to the LUDC will take effect 30 days following Board adoption of the ordinance.

Fiscal and Facilities Impacts:

Funding for this project was planned for next Fiscal Year. However, the Division obtained a grant under the SB 2 program that can be used to cover the cost of this work effort. There are no facilities impacts.

Special Instructions:

P&D will fulfill noticing requirements.

The Clerk of the Board shall provide a copy of the signed ordinances and resolution, and minute order, to P&D, attention: Jeff Wilson, Assistant Director.

Attachments:

1. Findings for Approval
2. CEQA Notice of Exemption
3. LUDC Ordinance Amendment for Adoption (Case No. 22ORD-00000-00010)
4. Resolution of the County Planning Commission
5. County Planning Commission Staff Report, dated January 2, 2023

Authored by:

Jeff Wilson, Assistant Director (805)568-2085