



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
Department No.: 053
For Agenda Of: October 2, 2018
Placement: Set Hearing for October 9, 2018
Estimated Time: 45 minutes on October 9, 2018
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Directors: Dianne Black, Director, Planning and Development
(805) 568-2086

Contact Info: Dan Klemann, Deputy Director, Long Range Planning Division
(805) 568-2072

SUBJECT: Agricultural Employee Dwelling Ordinance Amendments

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

On October 2, 2018, staff recommends that the Board of Supervisors set a hearing for October 9, 2018, to consider the adoption of amendments to the County Land Use and Development Code (LUDC), and Article II, the Coastal Zoning Ordinance (Article II), to streamline the permit process for agricultural employee dwellings (AEDs) in the Agriculture I (AG-I) and Agriculture II (AG-II) zones in the unincorporated areas of Santa Barbara County.

On October 9, 2018, staff recommends that the Board of Supervisors take the following actions:

- a) Case No. 18ORD-00000-00002 (LUDC Amendment):
 - i) Make the findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1);
 - ii) Determine that the Negative Declaration (14NGD-00000-00014) adopted for the 2015-2023 Housing Element Update (Housing Element) fulfills the environmental review requirements for this project and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162 (Attachment 2); and
 - iii) Adopt an ordinance (Case No. 18ORD-00000-00002) amending Section 35-1, the LUDC, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 3).
- b) Case No. 18ORD-00000-00003 (Article II Amendment):
 - i) Make the findings for approval, including CEQA findings (Attachment 1);

- ii) Determine that the Negative Declaration (14NGD-00000-00014) adopted for the Housing Element fulfills the environmental review requirements for this project and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162 (Attachment 2); and
- iii) Adopt an ordinance (Case No. 18ORD-00000-00003) amending Article II, the Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 4).

Summary Text:

The proposed AED ordinance amendments implement Housing Element Programs 1.4 and 2.4, which direct the County to incentivize the development of affordable housing and streamline the permit process for AEDs, respectively. The proposed LUDC and Article II amendments (Attachments 3 and 4, respectively) streamline the permit process for AEDs in the AG-I and AG-II zones by reducing the permit requirements as follows:

- Allow AEDs for one to four employees with a Zoning Clearance (ZC) in the Inland Area, or AEDs for one to nine employees with a Coastal Development Permit (CDP) in the Coastal Zone;
- Increase the number of employees allowed to occupy AEDs at each permit level;
- Modify the employment/location requirements for AEDs within certain zones and permit levels; and,
- Clarify that mobile homes, manufactured homes, and park trailers complying with the California Code of Regulations, Title 25, Division 1, Housing and Community Development, may be used as AEDs.

On April 17, 2018, the Montecito Planning Commission held a public hearing and voted 3-0 to recommend approval of the proposed Article II amendment (Attachment 5). On May 9, June 6, and July 11, 2018, the County Planning Commission (CPC) held public hearings to consider the proposed LUDC and Article II amendments, and recommended several revisions to the proposed amendments (Attachments 6, 7, and 8, respectively).

On August 29, 2018, the CPC voted 5-0 to recommend approval of the revised LUDC and Article II amendments (Attachment 9). In addition, the CPC asked staff to review other appropriate forms of AED proof of employment and provide a recommendation to the Board of Supervisors regarding these potential revisions to the proposed amendments (Attachment 3, LUDC Sections 35.42.030.C.2 and -D.1 and Attachment 4, Article II Section 35-144R.D). Staff’s recommended revisions to the AED proof of employment requirements are discussed in the Background section below and are reflected in Attachments 3 and 4.

Background:

High labor demand and the countywide housing shortage have created a significant need for affordable housing for agricultural employees and their families. Chapter 2 of the Housing Element highlights this need, stating “[t]he scale and the type of agricultural production throughout the county...point to a significant need for decent and sanitary housing options for the agricultural workforce.” Accordingly, Housing Element Program 1.4 directs the County to “adopt/apply...land-use tools... to encourage the development of unit types that are affordable by design, including...farm employee dwellings.” In a similar vein, Program 2.4 states:

...[T]he County shall continue to evaluate and revise as appropriate permit process procedures which streamline the permit process for farmworker housing. The County shall

also provide opportunities for stakeholder input from growers, ranch owners, and other agricultural operators regarding the need and opportunities for additional farmworker housing.

To implement Programs 1.4 and 2.4, the proposed LUDC and Article II amendments streamline the permit process for AEDs in the AG-I and AG-II zones as shown in Tables 1 and 2 below.

Table 1

Current LUDC Permit Requirements				
Zone	1-4 Employees		5+ Employees	
	Dwelling	Trailer	Dwelling	Trailer
AG-I	LUP ¹	MCUP ¹	CUP ¹	–
AG-II	LUP ²	MCUP ¹	CUP ²	CUP ²

Proposed LUDC Permit Requirements				
Zone	1-4 Employees	5-24 Employees	25-34 Employees	35+ Employees
AG-I	ZC ^{1,3,4,5,6}	LUP ^{1,4,5,6}	MCUP ²	CUP
AG-II	ZC ^{3,4,5,6}	LUP ^{4,5,6}	MCUP	CUP

¹ Requires full-time on-site employment.
² Requires the majority (51 percent or more) of employment to occur on the ranch or farm where the dwelling is located.
³ Projects with a water system with 2 to less than 5 connections will also require a Land Use Permit and may be subject to CEQA (LUDC § 35.21.030, Table 2-1).
⁴ Projects with an onsite wastewater treatment system, individual, alternative, will also require a MCUP and may be subject to CEQA (LUDC § 35.21.030, Table 2-1).
⁵ Projects with a water system with 5 or more connections will also require a MCUP and may be subject to CEQA (LUDC § 35.21.030, Table 2-1).
⁶ Projects meeting specified standards will also require a Development Plan and may be subject to CEQA (LUDC § 35.82.080).

Table 2

Current Article II Permit Requirements		
Zone	1-4 Employees	5+ Employees
AG-I	MCUP ¹	CUP
AG-II	MCUP ¹	CUP

Proposed Article II Permit Requirements			
Zone	1-9 Employees	10-19 Employees	20+ Employees
AG-I	CDP ^{1,3,4,5}	MCUP ²	CUP
AG-II	CDP ^{2,3,4,5}	MCUP ²	CUP

¹ Requires full-time on-site employment.
² Requires the majority (51 percent or more) of employment to occur on the ranch or farm where the dwelling is located.
³ Projects with a water system with 2 to less than 200 connections will also require a MCUP and may be subject to environmental review. (Article II Section 35-147.2.)
⁴ Projects within a Special Problems Area with and onsite wastewater treatment system, including a dry well, will also require a MCUP and may be subject to environmental review. (Article II Section 35-147.2.)
⁵ Projects with an individual alternative onsite wastewater treatment system will also require a MCUP and may be subject to environmental review. (Article II Section 35-147.2.)

During the June 6, 2018, hearing, the CPC directed staff to revise the proposed LUDC and Article II amendments to allow manufactured homes, mobile homes, and park trailers, with or without a permanent foundation, as AEDs. Staff revised the proposed amendments accordingly, and also added definitions of “park trailer” and “manufactured home,” which were derived from and contain references to the Health and Safety Code.

Following the CPC hearing of July 11, 2018, staff made minor text revisions to the proposed LUDC and Article II amendments to (1) update the types of documents that may be provided as proof of employment, and (2) clarify the requirements for recording a Notice to Property Owner. (Attachment 3, LUDC Sections 35.42.030.C and -D, and Attachment 4, Article II Sections 35-144R.D and -E.)

On August 29, 2018, the CPC directed staff to review additional documentation that could be used as proof of employment before the Board of Supervisors considered the AED ordinance amendments. Accordingly, staff added the following to the list of documents that satisfy the AED proof of employment requirement (Attachment 3, LUDC Sections LUDC Sections 35.42.030.C.2 and –D.1, and Attachment 4, Article II Section 35-144R.D):

- Employer’s DE-9 form (Quarterly Contribution Return and Report of Wages)
- Employer’s DE-34 form [Report of New Employee(s)]
- Employer’s ETA 790 form (Agricultural and Food Processing Clearance Order)
- Employer’s DLSE-NTE form (Notice to Employee)

Staff also revised the existing list of documents to remove the DE-3 form, which applies to household and domestic workers, not agricultural employees.

Collectively, these changes will provide applicants with more flexibility throughout the initial permitting process and also upon the five-year permit renewal.

California Coastal Commission (CCC) Staff Comments

On September 11, 2018, County staff submitted the proposed Article II amendments to CCC staff for preliminary review to confirm that the proposed amendments would constitute a minor amendment to the County’s certified Local Coastal Program (LCP). On September 19, 2018, the CCC determined that the proposed amendments would require suggested modifications in order to be processed as a minor LCP amendment (Attachment 10). However, some of these modifications would result in substantive changes to the proposed LCP amendment which would be inconsistent with the Board of Supervisors’ direction on other similar projects which involved similar issues, and to which the Board of Supervisors might object. Given that County staff has not had the opportunity to discuss and clarify the purposes of some of the suggested modifications with CCC staff, County staff recommends that the Board of Supervisors adopt the Article II amendment without including the suggested modifications and, consequently, not approve the LCP amendment to be processed as a minor amendment. Instead, County staff will submit the proposed LCP amendment to CCC staff as a major LCP amendment, which would give County staff the opportunity to further negotiate the requested modifications with CCC staff.

Staff will return to the Board of Supervisors in late Fall or early Winter 2018 with a resolution authorizing submittal of the proposed amendment to CCC staff as part of the County’s third and final major LCP amendment package of 2018.

Environmental Review:

Staff recommends that the Board of Supervisors determine that the Negative Declaration (14NGD-00000-00014) (Attachment 2) adopted for the Housing Element fulfills the environmental review requirements

for this project and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162. This section provides (in pertinent part) that the lead agency shall not prepare a subsequent environmental impact report (EIR) for a project when the lead agency or another entity has already adopted a negative declaration or certified an EIR for that project, unless one or more of the following have occurred: (1) substantial changes are proposed which will require major revisions to the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (3) new information of substantial importance which was not known and could not have been known at the time the previous Negative Declaration was adopted has become available.

The proposed AED ordinance amendments do not present any new information or proposed changes that will alter the purpose or intent of the goals, policies, and programs of the Housing Element. Therefore, no new environmental document is required and the proposed amendments do not require subsequent environmental review pursuant to CEQA Guidelines Section 15162. Please see the CEQA Findings in Attachment 1 for additional details.

Fiscal Analysis:

Funding for the AED ordinance amendments is budgeted in the Long Range Planning Work Program on page D-272 of the adopted Fiscal Year 2018-19 budget. To date, staff has expended approximately 625 hours/\$50,000 on preparing and processing the proposed AED ordinance amendments. There are no facilities impacts. **Special Instructions:**

The Planning and Development Department will fulfill all noticing requirements.

The Clerk of the Board shall provide a copy of the minute order to the Planning and Development Department, attention: Jessi Steele.

Authored by:

Jessi Steele, Planner, Long Range Planning Division, (805) 884-8082

Attachments:

1. Findings for Approval (Case Nos. 18ORD-00000-00002 and 18ORD-00000-00003)
2. Negative Declaration (14NGD-00000-00014) for the 2015-2023 Housing Element Update
3. LUDC Amendment (Case No. 18ORD-00000-00002)
4. Article II Amendment (Case No. 18ORD-00000-00003)
5. MPC Action Letter, dated April 17, 2018
6. CPC Staff Report, dated May 1, 2018
7. Staff Memorandum to the CPC, dated May 29, 2018
8. CPC Staff Report, dated July 3, 2018
9. CPC Action Letter, dated August 29, 2018
10. CCC Comments, dated September 19, 2018