



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

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

Department Name: Planning & Development
Department No.: 053
For Agenda Of: June 2, 2020
Placement: Departmental
Estimated Tme: 45 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director Lisa Plowman, Director, Planning and Development
Department, (805) 568-2086
Contact Info: Dan Klemann, Deputy Director, Long Range Planning
Division, (805) 568-2072

SUBJECT: California Coastal Commission's conditional certification of an amendment to the
Local Coastal Program regarding the Agricultural Employee Dwellings Coastal
Zoning Ordinance amendment.

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On June 2, 2020, staff recommends that the Board take the following actions:

- a) Receive notice of the California Coastal Commission's conditional certification of an amendment to the County's Local Coastal Program (Coastal Commission Case No. LCP-4-STB-18-0098-3-Part B), with five suggested modifications (Attachment 1); and
- b) Either:
 - i) Accept the suggested modifications:
 1. Adopt a resolution acknowledging receipt of the California Coastal Commission's conditional certification with modifications, accepting and agreeing to the suggested modifications, agreeing to issue Coastal Development Permits for the total area included in the conditionally certified Local Coastal Program, and adopting the Local Coastal Program Amendment with the suggested modifications (Attachment 2);
 2. Determine that the Board's action is not subject to the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.9 and State CEQA Guidelines Section 15265. The County relied upon the *2015-2023 Housing Element Update* Negative Declaration (14NGD-00000-00014) to fulfill the environmental review requirements for Case No.18ORD-00000-00003 (Attachment 3); and
 3. Direct the Planning and Development Department to transmit the adopted resolution to the

Executive Director of the California Coastal Commission.

or

- ii) Revise and resubmit the Agricultural Employee Dwelling Article II Coastal Zoning Ordinance (Article II) amendment:
 1. Make the findings for approval of a revised ordinance (Case No. 18ORD-00000-00003) amending Article II of Chapter 35, Zoning, of the Santa Barbara County Code related to the Agricultural Employee Dwelling Ordinance Amendment, including CEQA findings (Attachment 4);
 2. Determine that the Negative Declaration (14NGD-00000-00014) (Attachment 3) adopted for the Housing Element fulfills the environmental review requirements for the revised ordinance and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162; and
 3. Adopt a revised ordinance (Case No. 18ORD-00000-00003) amending Article II of Chapter 35, Zoning, of the Santa Barbara County Code related to the Agricultural Employee Dwelling Ordinance Amendment (Attachment 5).
 4. Adopt a resolution (Attachment 6) authorizing the resubmittal to the California Coastal Commission for review and certification of revised Ordinance No. 5069 (Case No. 18ORD-00000-00003) amending Article II of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 6, Exhibit 1) related to the Agricultural Employee Dwelling Ordinance.
 5. Determine that the submittal of the aforementioned resolution and amendments to the Santa Barbara County Local Coastal Program to the California Coastal Commission is exempt from environmental review pursuant to State CEQA Guidelines Section 15265.

Summary Text:

On December 11, 2018, the Board adopted Ordinance No. 5069 amending 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. The Board also adopted Resolution No. 18-309 authorizing staff to submit Ordinance No. 5069 to the Coastal Commission as a proposed amendment to the County's certified Local Coastal Program (LCP). The Coastal Commission considered this amendment at their February 13, 2020, hearing and conditionally certified the amendment with five suggested modifications (Attachment 1).

On April 7, 2020, the Board held a hearing to consider accepting the Coastal Commission's conditional certification, with modifications, of the AED LCP Amendment (LCPA). The Board generally accepted the modifications with the exception of Suggested Modification 2, which changed the employment location requirements for certain AEDs in the AG-I and AG-II zones. The Board disagreed with this modification and consequently directed staff to (1) return with options for amending the AED employment location requirements, and (2) revise and resubmit the AED LCPA to the Coastal Commission for certification. Staff discussed the options for amending the AED employment location requirements with Coastal Commission staff. Coastal Commission staff indicated that they could support a change to the suggested modifications to allow employees to perform the majority (51 percent or more)—rather than the entirety—of their work on the farm or ranch upon which the AED is located, for non-principal permitted AEDs in the AG-I zone. Such a revision is still subject to the review and action of the Coastal Commission. For the Board's consideration, staff has prepared an optional resolution and ordinance that includes this change to the AG-I AED employment location requirements in the AED LCPA, as well as the five suggested modifications included in the Coastal Commission's conditionally certified LCPA.

Background:

On December 11, 2018, the Board adopted employment location requirements that would be set forth in Article II Section 35-144R.B to allow employees living in non-principally permitted AEDs [i.e., AEDs permitted with a Coastal Development Permit (CDP) with Hearing (CDH)] to work on any farm(s) or ranch(es) of the owner or operator of the farm or ranch upon which the AED is located. Whereas non-principally permitted uses are subject to appeal to the Coastal Commission, principally permitted uses are not subject to appeal to the Coastal Commission. This Board-adopted language is shown in Table 1, below (black single underlined text). Coastal Commission Suggested Modification 2 removed this language (Table 1, red double strikethrough text) and added language (Table 1, blue double underlined text) requiring employees to work only on the farm or ranch upon which the AED is located.

Table 1 – Conditionally Certified AED Requirements (Suggested Modification 2)

<u>Zone</u>	<u>Permit requirement</u>	<u>Number of employees</u>	<u>Employment/Location</u>
<u>AG-I</u>	<u>CDP (PPU)</u>	<u>1-4</u>	<u>Employed full-time in agriculture on the farm or ranch upon which the dwelling is located.</u>
	CDP CDH (non-PPU)	1-9	Employed full-time in agriculture on the farm(s) or ranch(es) of the owner or operator of the farm or ranch upon which the dwelling is located.
	<u>MCUP</u>	<u>10-19</u>	<u>Employed full-time in agriculture, the majority (51 percent or more) of which occurs on the farm(s) or ranch(es) of the owner or operator of the farm or ranch upon which the dwelling is located.</u>
	<u>CUP</u>	<u>20 or more</u>	<u>No restriction on location of employment.</u>
<u>AG-II</u>	<u>CDP</u>	1-24 <u>1-4</u>	No restriction on location of employment. <u>Employed full-time in agriculture on the farm or ranch upon which the dwelling is located.</u>
	CDP CDH (non-PPU)	<u>5-24</u>	<u>Employed full-time in agriculture, the majority (51 percent or more) of which occurs on the farm or ranch upon which the dwelling is located.</u>
	<u>CUP</u>	<u>25 or more</u>	<u>No restriction on location of employment.</u>

The Coastal Commission stated that Suggested Modification 2 was necessary because larger-scale housing may not be appropriate or compatible with agricultural uses and would therefore be inconsistent with the coastal resource protection policies of the Coastal Act and the County’s certified LCP. The Coastal Commission further reasoned that “completely eliminating the employment location requirements in the more rural AG-II zone has the potential to create a disproportionate increase in housing relative to agricultural land uses, and excess housing would not be supportive of the coastal agricultural lands where it is located” (Coastal Commission Staff Report dated January 23, 2020, Attachment 7).

However, the Board disagreed with this modification, stating that the full-time on-site employment location requirements were too restrictive and would not provide housing where it is needed the most (e.g., the Carpinteria Valley). Members of the public also commented that the modified LCPA would limit AED development as there is often not enough work on a single AG-I parcel to support on-site housing for multiple employees. Consequently, the Board directed staff to return with options for amending the AED employment location requirements. Staff worked with the Coastal Commission staff to develop such an option that Coastal Commission staff would be willing to support, which is discussed below and reflected in the proposed Article II amendment in Attachment 5 – Exhibit 1.

Alternative Option – Revised Employment Location Requirements

The revised employment location requirements that Coastal Commission staff stated they could support are focused on non-principally permitted AEDs in the AG-I zone. The language proposed by this alternative option is shown in green underlined text in Table 2, below. As proposed, this option requires the majority (51 percent or more) of work to occur on the farm or ranch upon which the AED is located; the remainder (49 percent or less) may occur on any other farm or ranch, regardless of ownership. The Coastal Commission staff did not support applying this flexibility to principally permitted AEDs (i.e., AEDs permitted with a CDP that is not appealable to the Coastal Commission) because they felt that such non-appealable AEDs must serve the primary agricultural use of the lot, and thus should not provide housing for employees working on other properties.

Table 2 – Revised AED Requirements (Alternative Option)

<u>Zone</u>	<u>Permit requirement</u>	<u>Number of employees</u>	<u>Employment/Location</u>
AG-I	<u>CDP (PPU)</u>	<u>1-4</u>	<u>Employed full-time in agriculture on the farm or ranch upon which the dwelling is located.</u>
	CDP <u>CDH (non-PPU)</u>	±5-9	<u>Employed full-time in agriculture, the majority (51 percent or more) of which occurs on the farm(s) or ranch(es) of the owner or operator of the farm or ranch upon which the dwelling is located.</u>
	<u>MCUP</u>	<u>10-19</u>	<u>Employed full-time in agriculture, the majority (51 percent or more) of which occurs on the farm(s) or ranch(es) of the owner or operator of the farm or ranch upon which the dwelling is located.</u>
	<u>CUP</u>	<u>20 or more</u>	<u>No restriction on location of employment.</u>
AG-II	<u>CDP</u>	1-24 <u>1-4</u>	No restriction on location of employment. <u>Employed full-time in agriculture on the farm or ranch upon which the dwelling is located.</u>
	CDP <u>CDH (non-PPU)</u>	<u>5-24</u>	<u>Employed full-time in agriculture, the majority (51 percent or more) of which occurs on the farm or ranch upon which the dwelling is located.</u>
	<u>CUP</u>	<u>25 or more</u>	<u>No restriction on location of employment.</u>

The revised employment location requirement shown above reflects a compromise between the Coastal Commission’s obligation to protect coastal agricultural resources and the County’s desire to create a regulatory environment that could incentivize housing for agricultural employees. From Coastal Commission staff’s perspective, this alternative option reduces the potential for taking land out of agricultural production for housing since most of the employees’ work must occur on-site. At the same time, this option provides property owners with additional flexibility as it allows employees to split their time amongst multiple farms or ranches.

If the Board is amenable to this alternative option, the Board should take recommended action “b(ii)” rather than “b(i),” above. Recommended action “b(ii)” includes adopting a resolution accepting and agreeing to the Coastal Commission’s suggested modifications, with the proposed changes (Attachment 5). The Coastal Commission will treat this action the same as a resubmittal of the AED LCPA.

Other Options Presented to the Coastal Commission

P&D staff presented several other employment location options for the Coastal Commission staff’s consideration. However, Coastal Commission staff felt these options were inconsistent with the agricultural resource protection policies of the County’s certified LCP, including Coastal Act Policies 30241 and 30242

related to the maintenance of prime agricultural land and the conversion of lands suitable for agriculture, respectively. As a result, P&D staff did not prepare optional ordinance amendments for the following:

- Option 1: For AEDs permitted with a CDP, CDH, or Minor Conditional Use Permit (MCUP) in the AG-I zone, allow employees to work on the other farm(s) or ranch(es) of the same owner or operator.
- Option 2: For AEDs permitted with a CDP, CDH, or MCUP in the AG-I and AG-II zones, allow employees to work on the other farm(s) or ranch(es) of the same owner or operator.
- Option 3: For AEDs permitted with a CDP, CDH, or MCUP in the AG-I and AG-II zones, allow employees to perform the majority of their work on the farm(s) or ranch(es) of the same owner or operator.

Although staff has prepared a resolution and ordinance amendments for the option that Coastal Commission staff stated they could support, the Board is not limited to this option. The Board could direct staff to prepare a resolution and ordinance amendments for one of the other options presented to the Coastal Commission staff, or other revisions; however, it would be unlikely to receive a favorable recommendation from Coastal Commission staff or Coastal Commission approval.

Environmental Review:

The Board determined that the Negative Declaration (14NGD-00000-00014) (Attachment 3) 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. 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. None of these situations have occurred and, therefore, the County shall not prepare a subsequent EIR for the AED LCPA.

In addition, Public Resources Code Section 21080.9 and State CEQA Guidelines Section 15265 provide a statutory exemption for activities and approvals by a local government to adopt a LCP, and shifts the burden of CEQA compliance to the Coastal Commission. Thus, the Board's action to accept the Coastal Commission's suggested modifications to the AED LCPA is exempt from further environmental review, pursuant to Public Resources Code Section 21080.9 and State CEQA Guidelines Section 15265.

Fiscal Analysis:

Funding for this project is budgeted in the Planning and Development Department's Long Range Planning Budget Program on page D-269 of the County of Santa Barbara Fiscal Year (FY) 2019-20 adopted budget. Funding for the FY 2020-21 Long Range Planning Division Work Program is included in the Planning and Development Department budget submittal for the Board's consideration during the budget adoption process in June 2020. The scope of work to complete the AED Ordinance Amendments remaining tasks is partially dependent on the outcome of the June 2, 2020, hearing. It is anticipated that these additional tasks on the AED LCPA would need to be completed during the first two quarters of FY 2020-21 and, staff's recommendation is to delay work scheduled for the State Housing and Density Bonus Law Ordinance

Amendments in order to accommodate the additional work. This change to the Long Range Planning Work Program schedule and a description of additional AED LCPA tasks are included in Attachment 8. There are no facilities impacts.

Special Instructions:

The Planning and Development Department will fulfill all noticing requirements.

The Clerk of the Board will provide copies of the Minute Order and signed resolution to the Planning and Development Department, attention Jessi Steele, Planner.

Attachments:

1. Coastal Commission Certification Letter, Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-18-0098-3Part B (Agricultural Employee Dwellings), dated February 20, 2020.
2. Board of Supervisors Resolution to accept the Coastal Commission's certification of the Local Coastal Program Amendment with modifications
3. Negative Declaration (14NGD-00000-00014) for the *2015-2023 Housing Element Update*
4. Findings for Approval (Case No. 18ORD-00000-00003)
5. Revised Article II Amendment (18ORD-00000-00003)
6. Board of Supervisors Resolution to authorize the resubmittal to the California Coastal Commission for review and certification of revised Ordinance No. 5069 (Case No. 18ORD-00000-00003)
7. Coastal Commission Staff Report, dated January 23, 2020
8. Long Range Planning Division Work Program Project Schedules

Authored By:

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