

SANTA BARBARA COUNTY PLANNING COMMISSION

Staff Report for SB 35 Coastal Zone Ordinance Amendment

Hearing Date: September 25, 2024

Staff Report Date: September 17, 2024

Case No.: 24ORD-00010

Environmental Document: California
Environmental Quality Act (CEQA) Notice of
Exemption

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1.0 REQUEST

Hearing on the request of the County of Santa Barbara Planning and Development Department (P&D) for the County Planning Commission (CPC) to consider recommending that the Board of Supervisors (Board):

1. Adopt an ordinance (Case No. 24ORD-00010) amending Division 7, General Regulations; and Division 11, Permit Procedures of Article II, the Coastal Zoning Ordinance (CZO), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C).
2. Determine that the ordinance amendment (Case No. 24ORD-00010) is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3) and 15265 of the State Guidelines for the Implementation of CEQA.

The proposed CZO amendment creates new development standards and permit procedures to implement recent changes in state legislation regarding streamlined permit processing for qualifying housing projects in the Coastal Zone.

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below and recommend that the Board approve the Article II amendment (Case No. 24ORD-00010), as shown in Attachment C, based upon the ability to make the required findings. The CPC's motion should include the following:

1. Make the required findings for approval (Attachment A), including CEQA findings, and recommend that the Board make the findings for approval of the proposed amendments;
2. Recommend that the Board determine that the ordinance amendment (Case No. 24ORD-00010) is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3) and 15265 of the State Guidelines for the Implementation of CEQA (Attachment B); and
3. Adopt a resolution (Attachment C) recommending that the Board adopt an ordinance to amend Article II (Case No. 24ORD-00010) of Chapter 35, Zoning, of the Santa Barbara County Code.

Please refer the matter to staff if the CPC takes other than the recommended actions for the development of appropriate materials.

3.0 JURISDICTION

Section 35-57C of the Article II Coastal Zoning Ordinance (CZO) identifies the Planning Commission as the recommending body on Local Coastal Program Amendments.

Government Code Section 65854 states: “The planning commission shall hold a public hearing on the proposed ... amendment to a zoning ordinance.” Furthermore, Government Code Section 65855 states: “After the hearing, the planning commission shall render its decision in the form of a written recommendation to the legislative body...”

Section 2-25.2(b) of Chapter 2 – Administration of the Santa Barbara County Code, states in part: “... Recommendations regarding proposed amendments to articles I, II, III, V and VII of Chapter 35 of the County Code ... shall remain within the jurisdiction of the County Planning Commission.”

4.0 ISSUE SUMMARY

Over the past several years, the State Legislature has recognized the importance of increasing housing production and has adopted legislation to reduce barriers to housing development. The State passed several Senate Bills (SB) to streamline permit processing and to increase the production of housing with a particular focus on affordable housing, including SB 35 (2017) and SB 423 (2023). Highly summarized:

SB 35 (2017)

- Requires qualifying housing development projects to be reviewed in compliance with objective design standards and processed under streamlined provisions.
- Applicability of the streamlined review process is determined by the County’s progress toward meeting their allocation of the regional housing need as recorded in the housing element annual progress report.

SB 423 (2023)

- Implements SB 35 in the Coastal Zone effective January 1, 2025
- Extends the provisions of SB 35 to expire on January 1, 2036 in place of the original expiration date of January 1, 2026; among other updates.

The adoption of these legislative bills resulted in certain provisions of the County’s CZO becoming inconsistent with state law. To be consistent with state law, the proposed ordinance amendment adds Qualifying Housing Streamlined Review to the CZO. As this ordinance amendment is required to comply with state law, there is limited discretion in adopting these updates given the prescriptive nature of these laws.

Please see Section 5.2 below for further details regarding the proposed amendment and its compliance with recently adopted state housing laws.

5.0 PROJECT INFORMATION

5.1 Background

From 2017 to 2023, the State Legislature passed several bills with the shared goal of increasing housing production, particularly affordable housing and housing for special needs groups. To comply with updated state legislation and the Goals and Programs of the County’s 2023-2031 Housing Element Update, staff prepared updates to the Santa Barbara County Land Use and Development Code (LUDC), the Montecito Land Use and Development Code (MLUDC), and the CZO. Specifically, staff brought ordinance amendments to the Montecito Planning Commission, County Planning Commission, and Board of Supervisors between December 2023 and February 2024 related to the following zoning codes’ chapters and sections.

Ordinance Section	LUDC	MLUDC	CZO
Low Barrier Navigation Centers	Section 35.42.198	Section 35.442.138	Section 35-144I
State Density Bonus Law	Chapter 35.32	Chapter 35.432	Section 35-144C
Transitional and Supportive Housing	Section 35.42.265	Section 35.442.185	Section 35-144V
Multi-Unit and Mixed Use Housing Objective Design Standards	Chapter 35.33	Chapter 35.433	Section 35-144B
Qualifying Housing Streamlined Review	Chapter 35.31	Chapter 35.431	N/A

At the time of these recent amendments, Qualifying Housing Streamlined Review did not apply in the Coastal Zone and a relevant new section was therefore not added to the CZO. However, beginning on January 1, 2025, Qualifying Housing Streamlined Review will apply in certain areas of the Coastal Zone and staff are therefore proposing this ordinance amendment in order to come into conformance with state law.

5.2 Qualifying Housing Streamlined Review

On September 29, 2017, Governor Newsom approved SB 35 (codified in GC Sections 65582.1 and 65913.4) to implement a streamlined application review process for qualifying multiple-unit and mixed-use housing projects. The provisions of those Government Code sections apply only if the State has determined that the County is subject to this streamlined ministerial approval process due to insufficient progress towards meeting its regional housing needs allocation as described in the County’s 2023-2031 Housing Element and reported on annually as part of the Annual Progress Report. SB 35 applies to the County at this time. 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, including meeting specific affordability levels (currently 50 percent of units must be affordable to lower income households), labor standards, and conformance with objective zoning standards.

To comply with SB 35, the Board of Supervisors adopted an ordinance adding Chapter 35.31 - Affordable Housing Streamlined Review to the LUDC on January 24, 2023, becoming effective on February 23, 2023. Staff then made revisions to Chapter 35.31 in the LUDC to comply with more recent changes in state law and to clarify requirements, and amended the MLUDC to implement Qualifying Housing Streamlined

Review in the Montecito Community Plan area with the addition of Chapter 35.431. Those changes went into effect on March 14, 2024.

On September 13, 2023, the State Legislature passed SB 423 which implements SB 35 in certain areas of the Coastal Zone beginning on January 1, 2025, amongst other changes to the Government Code. The qualifying housing streamlined review does not apply in areas of the coastal zone that are generally considered as being in the “geographic appeals jurisdiction” of the Coastal Commission: between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach (whichever is the greater distance), on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary or stream, within 300 feet of the top of the seaward face of any coastal bluff, or in an area of the coastal zone vulnerable to five feet of sea level rise, amongst other excluded areas as defined in Government Code Section 65913.4(a)(6). Staff is proposing the creation of a new Section in the CZO, Section 35-144X, Qualifying Housing Streamlined Review, to coincide with Chapter 35.31 in the LUDC and Chapter 35.431 in the MLUDC. The proposed amendments for the CPC’s consideration and recommendation to the Board consist of:

- Creation of a new CZO Section, Section 35-144X, Qualifying Housing Streamlined Review.
- Establishment of the required permit to be a Coastal Development Permit for qualifying multi-unit and mixed-use projects.
- Establishment of the timeframe for applicability of this streamlined review process.
- Establishment that qualifying projects are ministerially approved and statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15268.
- Establishment of the requirement and procedures for a scoping consultation with any applicable California Native American tribe.
- Establishment of the requirement of a public meeting in the review process for qualifying projects.

The complete text of the proposed new Section is included in Attachment C-1.

6.0 ENVIRONMENTAL REVIEW

The proposed CZO amendment is exempt from environmental review pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15265. State CEQA Guidelines Section 15061(b)(3) provides an exemption for projects that will have no possibility of significant effect. As explained further in Attachment B, no significant environmental impacts would occur as a result of these ordinance amendments. State CEQA Guidelines Section 15265 statutorily exempts local agency activities involving the preparation and adoption of local coastal program amendments from environmental review.

Please see the Notice of Exemption (Attachment B) for additional information.

7.0 POLICY AND ORDINANCE CONSISTENCY

The proposed ordinance adds a new Section within the CZO and is consistent with the remaining portions of the CZO which are not revised by this amendment. Qualifying streamlined housing projects must comply with all objective land use regulations, development standards, and design review standards. Furthermore, they must be proposed on lots that are designated for multifamily residential uses and cannot be located in areas appealable to the Coastal Commission per Article II Section 35-182.6(3)(a)(b)(c), in alignment with Government Code Section 65913.4(a)(6).

The ordinance amendment does not supersede or in any way alter or lessen the effect of the California Coastal Act of 1976. Furthermore, projects proposed within the Coastal Zone must be consistent with all applicable policies and provisions of the Local Coastal Program, as codified within the proposed CZO amendment.

The proposed amendment is consistent with the Comprehensive Plan and Coastal Land Use Plan (CLUP), and implements Program 16: Reduction of Governmental Constraints of the 2023-2031 Housing Element Update (Housing Element). Program 16 directs the County to update the County's zoning ordinances to comply with changes to state housing laws and to address housing constraints related to barriers to streamlined permit processing and the availability and maintenance of affordable housing. The proposed amendment implements Program 16 by bringing the CZO up to date with state housing laws.

The proposed amendments are part of an ongoing effort to bring certain rules, regulations, and review processes up to date with County goals, and reflect current regulatory conditions. The overall objective is to make requirements clear and effective, streamline review processes, and provide for more opportunities for housing development. By updating the zoning ordinance to be consistent with state laws, the proposed amendments are consistent with the requirements of state planning and zoning laws. As such, these amendments are consistent with the CZO regulations.

8.0 APPEALS PROCEDURE

Ordinance amendments recommended for approval or denial are legislative acts that are automatically forwarded to the Board for final action. Therefore, the ordinance amendments are not subject to appeal.

9.0 ATTACHMENTS

- A. Findings for Approval (Case No. 24ORD-00010)
- B. Notice of Exemption (Case No. 24ORD-00010)
- C. CZO Resolution and Amendment (Case No. 24ORD-00010)