



**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: Set Hearing on March 24, 2020, for April 7, 2020
Placement: Departmental
Estimated Tme: 30 minutes on April 7, 2020
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 March 24, 2020, staff recommends that the Board of Supervisors (Board) set a hearing for April 7, 2020, to consider accepting the California Coastal Commission's conditional certification of the Agricultural Employee Dwelling Coastal Zoning Ordinance amendment (Case No. 18ORD-00000-00003) as an amendment to the County's certified Local Coastal Program.

On April 7, 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);
- b) 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);
- c) 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

- d) Direct the Planning and Development Department to transmit the adopted resolution to the Executive Director of the California Coastal Commission.

Summary Text:

On December 11, 2018, the Board adopted the Agricultural Employee Dwellings (AEDs) Ordinance Amendment (Ordinance No. 5069), which amended permit requirements of the Article II Coastal Zoning Ordinance (Article II) to streamline permitting for AEDs in the Coastal Zone. The Board authorized 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- Coastal Commission Letter dated February 20, 2020). In their letter, language approved by the Coastal Commission to be modified is shown in ~~double-strikeout~~ for deletions and double underline for insertions. Additional information regarding the Coastal Commission's action, including the Coastal Commission staff report and suggested modifications are set forth in Exhibits 1 and 2 to the Coastal Commission staff report dated January 23, 2020 (Attachment 4).

The Coastal Commission's conditional certification will expire on August 13, 2020, six months following the date of the Coastal Commission's action on February 13, 2020, unless prior to that date the Board acts to accept the modification. The Board may choose to accept or reject the suggested modifications. If the Board chooses to accept the modifications, then following receipt of a Board resolution acknowledging and accepting the Coastal Commission's suggested modifications, the Coastal Commission's Executive Director will make a determination that the County's action is legally adequate to satisfy any specific requirements set forth in the Coastal Commission's certification order and report this determination to the Coastal Commission at its next regularly scheduled public meeting. If the Coastal Commission does not object to the Executive Director's determination, then notice of the certification will be filed with the Secretary of the Resources Agency and the certification will be deemed final and effective. However, if a majority of the Coastal Commission members object to the Executive Director's determination and find that the County's action does not conform to the provisions of the Coastal Commission's action to certify the amendment to the County's LCP, then the Coastal Commission will review the County's action in a subsequent public hearing as if it were a re-submittal.

Once the amendment receives final certification from the Coastal Commission, the amendment as modified will become effective and will be incorporated into the County's certified LCP.

The Board has the following options if it does not accept the suggested modifications:

- Adopt amendments to the suggested modifications and re-submit the amended AED Ordinance for certification as a new LCP amendment.
- Reject the modifications without adopting any amendments to the suggested modifications and request that the Coastal Commission not certify the LCP amendment.
- Allow the Coastal Commission's certification with the suggested modifications to expire by taking no action prior to August 13, 2020.

Background:

On December 11, 2018, the Board adopted Ordinance No. 5069 amending Article II to streamline the permit process for 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 LCP.

A. *Coastal Commission Modifications Summary*

On February 13, 2020, the Coastal Commission conditionally certified LCP Amendment LCP-4-STB-18-0098-3-Part B with five suggested modifications, which are summarized below:

Suggested Modification 1

- Updates the list of permitted and conditionally permitted uses in Article II Sections 35-68 and 35-69 to reflect changes resulting from the certified accessory dwelling unit (ADU) and cannabis LCPAs.

Discussion: In late 2018 and early 2019, the Coastal Commission certified the County’s cannabis and ADU LCP amendments, respectively. These amendments changed the lists of permitted uses in Article II Sections 35-68 and 35-69. To ensure that the AED LCP amendment does not inadvertently undo previously certified language in those sections, Suggested Modification 1 includes language from the ADU and cannabis LCP amendments, which is currently reflected in Article II.

Suggested Modification 2

- Adds language to Article II Section 35-144R.B to clarify the permitting and processing requirements for AEDs, including principal permitted uses and non-principal permitted uses.
- Modifies the table in Article II Section 35-144R.B (Permit Requirements and Development Standards for Agricultural Employee Dwellings) as follows:
 - Specifies that AEDs for one to four employees shall be principal permitted uses in the AG-I and AG-II zones.
 - Specifies that AEDs for five to nine employees in the AG-I zone and five to 24 employees in the AG-II zone shall be non-principal permitted uses.
 - Requires full-time onsite employment for AEDs for one to nine employees in the AG-I zone and one to four employees in the AG-II zone.
 - Requires majority (51 percent or more) full-time onsite employment for AEDs for 10 to 19 employees in the AG-I zone and five to 24 employees in the AG-II zone.
 - Clarifies that AEDs are allowed in other zones where single-family dwellings are allowed.
 - Clarifies that a Development Plan may be required for AEDs in certain zones.

Discussion: Section 30603(a) (4) of the Coastal Act requires that all development within the coastal zone of a coastal county be appealable to the Coastal Commission unless the development is designated as the “principal permitted use” under the zoning ordinance or zoning district map. A principal permitted use is a use that clearly carries out the designated land use and the intent and purpose of a particular zone.

When Article II was originally certified as part of the County’s LCP, Article II simply identified uses that require a Coastal Development Permit (CDP) and uses that require a Major Conditional Use Permit (CUP) or Minor Conditional Use Permit (MCUP). Article II did not specify whether uses were principally permitted or not.

More recently in 2018, the Coastal Commission required the County to identify principal permitted uses and non-principal permitted uses within the Gaviota Coast Plan Area subject to Article II to adequately execute the provisions of Section 30603(a) (4) of the Coastal Act. A principal permitted use requires a CDP and may be appealed to the Planning Commission or Board but may not be appealed to the Coastal Commission unless the use is located within the Appeals Jurisdiction. A non-principal permitted use requires a CDH (CDP with hearing before the Zoning Administrator) or a CUP or MCUP (hearing before

Zoning Administrator or Planning Commission, respectively). Non-principal permitted uses may be appealed to the Planning Commission, Board, or Coastal Commission.

Consistent with the Coastal Commission's previous direction, Suggested Modification 2 amends Article II Section 35-144R.B to identify AEDs that are principal and non-principal permitted uses. AEDs for one to four employees in the AG-I and AG-II zones are now identified as principal permitted uses that require a CDP. AEDs for five to nine employees in the AG-I zone and five to 24 employees in the AG-II zone are identified as non-principal permitted uses that require a CDH.

Suggested Modification 2 also amends the employment location requirements for certain AEDs. For AEDs allowed with a CDP, agricultural employees shall be employed full-time in agriculture on the farm or ranch upon which the dwelling is located. The Board-adopted amendment (Ordinance No. 5069) would allow 1-24 AEDs with a CDP in the AG-II zone with no restriction on the location of employment for agricultural employees. As stated in the Coastal Commission staff report dated January 23, 2020, the Coastal Commission made this change so that the employment location requirements in the AG-II zone would more closely match those in the AG-I zone. This change is also intended to balance the amount of housing relative to agricultural land uses and avoid taking land out of agricultural production for housing.

Suggested Modifications 3 & 4

- Revises the findings in Article II Sections 35-144R.C.5.1 and 35-144R.D.5.1 to require that all AEDs be "sited and designed to avoid ... non-prime land suitable for agriculture to the maximum extent feasible and ... maintain the long-term viability of agricultural resources and operations on the property and on adjacent agricultural lands."

Discussion: Suggested Modifications 3 and 4 revise the findings for AEDs to be consistent with existing agricultural resource protection policies of the County's Coastal Land Use Plan and Coastal Act Policies 30241 and 30242, which address the viability and preservation of existing agricultural uses.

Suggested Modification 5

- Updates the AED permit requirements and section references in Table 18-2 of Article II Section 35-430.E.

Discussion: Suggested Modification 5 makes minor changes to the AED permit requirements in Table 18-2 (Gaviota Coast Plan Overlay Table) for consistency with the new permit levels proposed by the AED LCP amendment. Due to the timing of the Gaviota Coast Plan LCP amendment certification (November 2018) and submittal of Ordinance No. 5069 to the Coastal Commission as a proposed LCP amendment (December 2018), the proposed AED amendments were not reflected in Table 18-2 (Gaviota Coast Plan Overlay Table). Suggested Modification 5 clarifies that the AED amendments would apply throughout the Coastal Zone, inclusive of the Gaviota Coast Plan Area.

Staff Recommendation

The Planning and Development Department reviewed the Coastal Commission's suggested modifications and, based on the analysis above, recommends that your Board adopt the attached resolution (Attachment 2) acknowledging receipt of the Coastal Commission's certification with the suggested modifications and adopting the LCP amendment with the suggested modifications.

B. *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.

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 LCP amendment is exempt from further environmental review, pursuant to Public Resources Code Section 21080.9 and CEQA Guidelines Section 15265.

Fiscal Analysis:

Funding for this project is budgeted in the Planning and Development's Permitting Budget Program on page D-269 of the County of Santa Barbara Fiscal Year 2019-20 adopted budget. 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. Coastal Commission Staff Report, dated January 23, 2020

Authored By:

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