



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 & Development
Department No.: 053
For Agenda Of: August 14, 2018
Placement: Administrative
Estimated Time: NA
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dianne M. Black, Director, Planning and Development
Director (805) 568-2086
Contact Info: Jeff Wilson, Deputy Director, Development Review Division
(805) 568-2518
SUBJECT: California Coastal Commission Conditional Certification of an Amendment to the Local Coastal Program – Like-for-Like Rebuild (Debris Flow) (Case No. 18ORD-00000-00006), Countywide

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

Accept the California Coastal Commission's conditional certification with modifications of an amendment to the County's Local Coastal Program to revise existing regulations and permit procedures in order to accommodate the rebuilding of structures damaged or destroyed during a debris flow event or other natural event resulting in significant change in topography or alteration of drainage features.

Staff recommends that the Board of Supervisors take the following actions:

- a) Receive the California Coastal Commission's conditional certification with one suggested modification of an amendment to the County's Local Coastal Program (Coastal Commission Case No. LCP-4-STB-18-0039-1 Part A) (Attachment 1);
- b) Adopt a resolution acknowledging receipt of the California Coastal Commission's resolution of conditional certification, including any terms or modifications suggested for final certification, accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications, agrees to issue Coastal Development Permits for the total area included in the certified Local Coastal Program, and adopts the Local Coastal Program Amendment with the suggested modification (Attachment 2);
- c) Determine that the Board of Supervisors' action is not subject to the California Environmental Quality Act pursuant to Public Resources Code Section 21080.9. The County relied upon CEQA Guidelines Sections 15061(b)(3), 15265, 15302, and 15305 for CEQA review of Case No. 18ORD-00000-00006; and

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

Refer back to staff if the Board of Supervisors takes other than the recommended actions.

Summary Text:

On May 15, 2018, the Santa Barbara County Board of Supervisors adopted Resolution No. 18-253 submitting the Like-for-Like Rebuild Ordinance to the California Coastal Commission as an amendment to the County's Local Coastal Program (LCP). On July 11, 2018, the Coastal Commission certified the amendment to the LCP with one suggested modification. The one suggested modification clarifies the processing requirements for a de minimis waiver in the Coastal Zone by including additional noticing requirements, allowing property owners to apply for a new waiver after a waiver expires, establishing that development shall not exceed the floor area of the damaged or destroyed structure by more than 10 percent, requiring that the County report waivers to the Board of Supervisors rather than the Coastal Commission, and making the waiver effective immediately after the Board of Supervisors hearing unless the Board of Supervisors requests that the waiver not be effective. The modification is discussed further in the Background section below and is presented in Attachment 1 (Coastal Commission letter dated June 21, 2018).

P&D staff recommends that the Board of Supervisors accept the Coastal Commission's conditional certification of the LCP amendment with the suggested modification. The suggested modification provides procedural clarifications regarding the County's process for de minimis CDP waivers. Specifically, the modification adds all known interested parties, including the Coastal Commission to those who should be noticed of waivers, clarifies that the size of the restored or replaced structure shall not exceed the floor area of the damaged or destroyed structure by more than ten percent, and requires waivers to be reported at a Board of Supervisors hearing rather than a Coastal Commission hearing.

The Coastal Commission's conditional certification will expire on January 11, 2019, unless prior to that date the Board of Supervisors accepts the one suggested modification. The Board of Supervisors may choose to accept or reject the suggested modification.

If the Board of Supervisors accepts the modifications by adopting the attached resolution (Attachment 2), the Coastal Commission's Executive Director will take several steps leading to final certification of the LCP amendment. Following receipt of the resolution 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. If, for some reason, a majority of the Coastal Commission members do not agree with 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 Local Coastal Program, then the Coastal Commission will review the County's action in a subsequent public hearing as if it were a re-submittal.

While staff recommends that the Board of Supervisors accept the suggested modifications, the Board has the following options if it does not accept the suggested modifications:

- Adopt amendments to the suggested modifications and resubmit the amended Like-for-Like Ordinance for certification.

- Reject the modifications without adopting any amendments to the suggested modifications and request that the Coastal Commission not certify the Like-for-Like Ordinance.
- Allow the Coastal Commission's conditional certification with the suggested modifications to expire by taking no action prior to January 11, 2019.

Background:

A. Project Recap

On May 15, 2018, the Board of Supervisors adopted ordinances to amend the Montecito Land Use and Development Code (MLUDC), Article II, the Coastal Zoning Ordinance, and the Land Use and Development Code (LUDC), which are intended to accommodate the rebuilding of structures that were damaged or destroyed during a debris flow event or other natural disaster event resulting in a significant change in topography or alteration of drainage features. The adopted ordinances include the following:

- Ordinance No. 5042 (Case No. 18ORD-00000-00005), amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the County Code.
- Ordinance No. 5043 (Case No. 18ORD-00000-00006), amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code.
- Ordinance No. 5044 (Case No. 18ORD-00000-00007), amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code.

The Like-for-Like (Debris Flow) Ordinances have been in effect in the inland area of the County since June 15, 2018. However, the Coastal Commission must certify the Like-for-Like Ordinance (Article II) as an amendment to the County's LCP before the changes are effective in the Coastal Zone.

B. Coastal Commission Suggested Modifications

Prior to the Coastal Commission hearing on July 11, 2018, P&D staff reviewed the suggested modification and discussed the changes with Coastal Commission staff. Since the proposed amendment transfers the de minimis waiver authority to the County, the modification indicates that reports on de minimis waivers would be heard by the Board of Supervisors, which is the appropriate local hearing body. Rather than reporting on the de minimis waivers at a Coastal Commission hearing, the transfer of the hearing body to the Board of Supervisors will result in a more streamlined process for applicants and P&D staff.

The Coastal Commission certified the LCP amendment regarding the Like-for-Like Ordinance with one suggested modification. The modification:

- Requires noticing of waivers to all known interested parties, including the Coastal Commission;
- Requires a ten-day noticing period between the waiver determination and the reporting of the waiver determination to a hearing body;
- Clarifies that the size of restored or replaced structures shall not exceed the floor area of the damaged or destroyed structure by more than ten percent;
- Requires the County to report waivers to the Board of Supervisors rather than the Coastal Commission because the proposed modification will transfer de minimis CDP waiver authority to the County;

- Makes the waiver effective immediately after the Board of Supervisors hearing unless the Board of Supervisors requests that the waiver not be effective; and
- Allows another waiver to be obtained should the first waiver issued expire.

The Coastal Commission's modified language serves to clarify and refine the Like-for-Like Ordinance within the Coastal Zone. As a result, P&D staff recommends that the Board of Supervisors accept the Coastal Commission's conditional certification of the LCP amendment with the suggested modification. Additional information regarding the Coastal Commission's action can be found on its archived meeting agenda website for July 2018 at <https://www.coastal.ca.gov/meetings/agenda/#/2018/7>.

C. Environmental Review

The Board of Supervisors' action to accept the Coastal Commission's conditional certification with the one suggested modification is not subject to CEQA pursuant to Public Resources Code Section 21080.9. In approving the Like-for-Like Ordinance (Article II) on May 15, 2018, the County determined that the adoption of this ordinance is exempt from CEQA pursuant to Sections 15061(b)(3), 15265, 15302, and 15305 of the CEQA Guidelines.

Fiscal and Facilities Impacts:

Budgeted: Yes

Funding for the current work effort (to complete the Coastal Commission certification process for the Like-for-Like Ordinance) is included in the Board of Supervisors adopted P&D budget in the Permitting Budget Program on page D-272 of the Fiscal Year 2018-19 budget.

Special Instructions:

The Clerk of the Board shall provide a copy of the executed resolution and the minute order to P&D, attention: David Villalobos.

Planning and Development will transmit the Resolution to the Coastal Commission and other interested parties.

Attachments:

1. July 20, 2018 Coastal Commission Conditional Certification Letter, Santa Barbara County Local Coastal Program Amendment Case No. LCP-4-STB-18-0039-1 Part A (Like-for-Like Ordinance)
2. Board of Supervisors Resolution Accepting the Coastal Commission's Conditional Certification of the Local Coastal Program Amendment with Modifications

Authored by:

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