



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: May 3, 2016
Placement: Set hearing
Estimated Tme: 30 minutes (on May 17, 2016)
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Glenn Russell, Ph.D. (805) 568-2085
Contact Info: Dianne Black, Assistant Director (805) 568-2086
SUBJECT: California Coastal Commission's conditional certification of an amendment to the Local Coastal Program regarding the 2013 General Package Ordinance Amendments, First, Second and Third Supervisorial Districts.

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

On May 3, 2016, set a hearing for May 17, 2016 to consider the California Coastal Commission's conditional certification of an amendment to the County's Local Coastal Program regarding the 2013 General Package Ordinance Amendments.

On May 17, 2016, your Board's action should include the following:

- 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-14-0835-2-Part B 2013 General Package Ordinance Amendments) with one suggested modification (Attachment 1);
- b) Adopt a Resolution acknowledging receipt of the California Coastal Commission's conditional certification with a modification, accepting and agreeing to the modification, 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 pursuant to Public Resources Code Section 21080.9. The County relied upon CEQA Guidelines Sections 15061(b)(3) and 15265 for CEQA review of Case No. 13ORD-00000-00010, 2013 General Package Ordinance Amendments; and,
- d) Direct the Planning and Development Department to transmit the adopted Resolution to the Executive Director of the California Coastal Commission.

1. Background.

On April 15, 2014, the Santa Barbara County Board of Supervisors adopted Ordinance No. 4884 (Case No. 13ORD-00000-00010) that amended Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, to implement a series of amendments that address emerging issues and correct and clarify existing language. This Ordinance included the following topics:

- Exterior material storage screening requirements.
- Exterior vehicle (trailer) storage requirements and allowed paving materials.
- Phased CUP/DP maximum build-out periods.
- Pool and pool equipment setbacks for interior lots.
- Special care homes restriction on number of clients.
- Structural alterations to nonconforming structures
- Surface mining and reclamation regulations for idle mines

On June 17, 2014, the Santa Barbara County Board of Supervisors, by Resolution No. 14-146, submitted Ordinance No. 4884 to the Coastal Commission as a proposed amendment to the County's certified Local Coastal Program.

The Coastal Commission considered this amendment at their March 11, 2016 hearing and conditionally certified the amendment with one suggested modification as shown beginning on page 3 of Attachment 1 (Coastal Commission letter dated March 17, 2016). The suggested modification is also discussed in the following analysis section of this Board letter. The Coastal Commission's conditional certification will expire on September 11, 2016, six months following the date of the Coastal Commission's action on March 11, 2016, unless prior to that date your Board acts to accept the modification.

Your Board may choose to accept or reject the suggested modification. If your Board chooses to accept the modification, then following receipt of a Board resolution acknowledging and accepting the Coastal Commission's suggested modification, 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 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.

Once the amendment receives final certification from the Coastal Commission, the amendment as modified will become effective and will be incorporated into the certified Article II Coastal Zoning Ordinance.

If your Board decides to not accept the suggested modification, then your Board has the following options:

- Adopt amendments to the suggested modification and re-submit the 2013 General Package Ordinance Amendments for certification.
- Reject the modification without adopting any amendments to the suggested modification and request that the Coastal Commission not certify the proposed amendment to the Local Coastal Program.
- Let the Coastal Commission's conditional certification with the suggested modification expire by taking no action prior to September 11, 2016.

2. Recommendation.

The Planning and Development Department reviewed the Coastal Commission's suggested modification and, based on the analysis contained in the following section, recommends that your Board accept the suggested modification and approve the attached Resolution (Attachment 2) acknowledging receipt of the Coastal Commission's certification with the suggested modification and adopting the Local Coastal Program Amendment with the suggested modification.

3. Analysis.

Suggested Modification: The underlined language in the following text shows the suggested modification approved by the Coastal Commission.

Subsection 1(a) of Section 35-162, Nonconforming Structures and Uses, shall be modified as follows:

1. Structural change, enlargement, or extension.

a. Enlargements or extensions allowed in limited circumstances.

- 1) Except as listed below or otherwise provided in this Article, a nonconforming structure shall not be enlarged, extended, moved, or structurally altered unless the enlargement, extension, etc., complies with the height, lot coverage, setback, and other requirements of this Article.

2) Allowed structural alterations.

- a) **Seismic retrofits allowed.** Seismic retrofits as defined in Section 35-58 (Definitions) and in compliance with Section 35-169.2 (Applicability) may be allowed but shall be limited exclusively to compliance with earthquake safety standards and other applicable Building Code requirements, including State law (e.g., Title 24, California Code of Regulations).
- b) **Normal maintenance and repair.** Normal maintenance and repair may occur provided no structural alterations are made.
- c) **Historical landmarks.** A structure that has been declared to be a historical landmark in compliance with a resolution of the Board may be enlarged,

extended, reconstructed, relocated, and/or structurally altered provided the County Historical Landmarks Advisory Commission has reviewed and approved the proposed structural alterations and has determined that the proposed structural alterations will help to preserve and maintain the landmark in the long-term. However, such a structure shall not be enlarged, extended, reconstructed, relocated, and/or structurally altered if the nonconforming structure is inconsistent with any coastal resource protection policies of the LCP (regardless of historic status).

- d) **Conforming residential uses and residential accessory uses.** A nonconforming structure that is devoted to a conforming residential use or that is normally or historically accessory to the primary residential use may be structurally altered in a manner that is not otherwise allowed in compliance with Subsection 1.a.1), above, provided that the alteration does not result in a structure that extends beyond the existing exterior, and, for structures that are 50 years old or greater, the Director determines that the alteration will not result in a detrimental effect on any potential historical significance of the structure. However, structural alterations to a nonconforming structure shall be prohibited if the nonconforming structure and/or the structural alterations are inconsistent with any coastal resource protection policies of the LCP.
- 3) **Permit required.** The issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits) or Land Use Permit in compliance with Section 35-178 (Land Use Permits), as applicable, is required prior to the commencement of any structural alteration allowed in compliance with Subsections 1.a.1 or 1.a.2, above, unless the alteration is determined to be exempt in compliance with Section 35-169.2 (Applicability).
- 4) **Accessory living quarters.** No living quarters may be extended into an accessory structure located in the required front, side, or rear setbacks by any addition or enlargement.
- 5) **Loss of nonconforming status.**
- a) An existing nonconforming structure that is enlarged, extended, moved, reconstructed, or structurally altered in violation of Subsection 1.a, above, shall no longer be considered to be nonconforming and the rights to continue the nonconforming structure shall terminate unless the enlargement, extension, moving, reconstruction, or structural alteration is specifically allowed by this Article.
- b) If the rights to continue the nonconforming structure are terminated then the structure shall either be demolished or altered so that the structure may be considered a conforming structure. Failure by the owner to either demolish the structure or alter the structure so that it may be considered a conforming structure shall be considered a violation of this Article and subject to enforcement and penalties in compliance with Section 35-185 (Enforcement, Legal Procedures, and Penalties).

Discussion:

Nonconforming structures are structures that are conforming as to use (e.g., a dwelling in a residential zone) but do not conform to present zoning requirements such as height, lot coverage, setbacks and other standards. Section 35-162 (Nonconforming Structures and Uses) of the Article II Coastal Zoning Ordinance provides that nonconforming structures are legal structures that may remain so long as they are otherwise lawful; however, Article II also discourages the long-term continuation of such structures by prohibiting, except in a limited set of circumstances shown below, structural alterations to the nonconforming structure since these alterations typically prolong the usable life of the structure. However, this language does not exempt such structural alteration from the need to obtain a Coastal Development Permit, or require that the Coastal Development Permit be approved.

Section 35-162 currently provides that structural alterations to nonconforming structure may be allowed if the alteration would:

- Conform to the present height, lot coverage, setback, and other requirements of the zoning ordinance, or
- Qualify as a seismic retrofit, or
- Help to preserve and maintain a designated landmark.

The 2013 General Package Ordinance Amendments included restructuring Section 35-162, to:

- Add that structural alterations to nonconforming structures devoted to conforming residential uses and accessory uses (including historically accessory uses) may be allowed in certain circumstances.
- Clarify that the approval of either a Coastal Development Permit or a Land Use Permit is required in order to structurally alter a nonconforming structure.
- Add new language that if a nonconforming structure is structurally altered without a permit that the structure loses its nonconforming status and must be converted to a conforming structure.

In order to approve a Coastal Development Permit to structurally alter a nonconforming structure the Department must first find, in addition to other required findings, that the proposed development is consistent with the applicable policies of the County's Comprehensive Plan including the Coastal Land Use Plan. These policies include coastal resource protection policies that address agricultural productivity, bluff top development, environmentally sensitive habitat areas, public access, visual resources, and shoreline processes and development. Therefore, the added language approved by the Coastal Commission as a suggested modification only serves to highlight the existing required findings and does not add any new requirement regarding the permitting of structural alterations to nonconforming historical landmarks or other nonconforming structures.

Fiscal Analysis:

Funding for this ordinance amendment work effort is budgeted in the Administration and Support Budget Program on page D-287 of the adopted Planning and Development Department's budget for fiscal years 2015 - 2017. There are no facilities impacts at this time.

Special Instructions:

1. Clerk of the Board will transmit to the Planning and Development Department (attention Noel Langle) a minute order of the hearing, and a signed resolution (Attachment 2).
2. Planning and Development will transmit the Resolution to the Coastal Commission and other interested parties.

Attachments:

1. Coastal Commission Action Letter
2. Board of Supervisors Resolution

Authored by:

Noel Langle, Senior Planner (805) 568-2067