



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: August 14, 2018
Placement: Departmental Agenda
Estimated Tme: 90 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Dianne Black, Director, Planning and Development,
(805) 568-2085
Contact Info: Dan Klemann, Deputy Director, Long Range Planning
Division, (805) 568-2072
SUBJECT: Accessory Dwelling Unit Ordinance Amendments

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

Staff recommends that the Board of Supervisors (Board) consider the adoption of amendments to the County Land Use and Development Code (LUDC), Montecito Land Use and Development Code (MLUDC), and Article II, the Coastal Zoning Ordinance (Article II), to revise existing development standards and permit procedures and implement State law regarding accessory dwelling units (ADUs), and amend the *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones* (Uniform Rules) to allow ADUs as a compatible use on agricultural preserve contracted lands.

Your Board's action should include the following:

- a) LUDC Amendment (Case No. 16ORD-00000-00014):
 - i) Make the required findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1);
 - ii) Determine that the adoption of this ordinance is statutorily exempt from environmental review pursuant to CEQA Guidelines Section 15282(h) (Attachment 2); and
 - iii) Adopt an ordinance (Case No. 16ORD-00000-00014) amending Section 35-1, the County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 3).
- b) MLUDC Amendment (Case No. 16ORD-00000-00015):
 - i) Make the required findings for approval, including CEQA findings (Attachment 1);
 - ii) Determine that the adoption of this ordinance is statutorily exempt from environmental review pursuant to CEQA Guidelines Section 15282(h) (Attachment 2); and

- iii) Adopt an ordinance (Case No. 16ORD-00000-00015) amending Section 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 4).
- c) Article II Amendment (Case No. 16ORD-00000-00016):
 - i) Make the required findings for approval, including CEQA findings (Attachment 1);
 - ii) Determine that the adoption of this ordinance is statutorily exempt from environmental review pursuant to CEQA Guidelines Sections 15282(h) and 15265 (Attachment 2); and
 - iii) Adopt an ordinance (Case No. 16ORD-00000-00016) amending Article II, the Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 5).
- d) Uniform Rules Amendments:
 - i) Determine that the Uniform Rules amendments are statutorily exempt from environmental review pursuant to CEQA Guidelines Sections 15282(h) and 15265 (Attachment 2); and
 - ii) Adopt a resolution amending the Uniform Rules to allow ADUs as a compatible use on agricultural preserve contracted lands (Attachment 6).

Summary Text:

In 2017 and 2018, new State legislation made it easier for homeowners to develop ADUs. Staff prepared proposed amendments to the LUDC, MLUDC, and Article II to comply with these laws and presented them to the Board on September 12, 2017. The Board directed staff to review six issues (each of which is addressed in further detail below) and return to the planning commissions and the Board with revised amendments. In part, the Board directed staff to reconcile inconsistencies between the Montecito Planning Commission's (MPC) and the County Planning Commission's (CPC) proposed amendments.

Staff returned to the MPC and CPC with revised amendments on January 3, 2018, and March 28, 2018, respectively. The MPC's and CPC's recommendations to the Board differ in regard to nine development standards. (See Section 2.6, below, the MPC Action Letter dated January 3, 2018, included as Attachment 7, and the CPC Action Letter dated March 28, 2018, included as Attachment 8.) Staff is recommending one approach to be implemented countywide for each of the aforementioned development standards, and has revised the proposed amendments to reflect these recommendations. (See Section 2.6, below, and the recommended MLUDC, LUDC, and Article II amendments included as Attachments 3, 4, and 5, respectively). In addition, pursuant to the CPC's request, staff has prepared proposed Uniform Rules amendments to allow ADUs as a compatible use on agricultural preserve contracted lands (Attachment 6).

The proposed ADU ordinance amendments recommended by the MPC and CPC would require a Land Use Permit (LUP) for certain ADUs. To streamline the permit process, staff has revised the proposed LUDC and MLUDC amendments to allow all ADUs with an Exemption (if located entirely within existing buildings) or a Zoning Clearance (ZC) (if located within a portion of an existing building or within a new building).

Staff submitted the proposed ADU ordinance amendments and the proposed Uniform Rules amendments to several State agencies for review and comment. Please see Sections 2.5, 3.0, and 5.0, below, for additional information.

Background:

1.0 General Information

Assembly Bill 2299 and Senate Bill 1069 revised Government Code Section 65852.2 to provide greater flexibility and latitude for new ADUs. In part, this legislation requires local jurisdictions to (1) ministerially process ADU applications in zones that allow single-family and multifamily uses, and (2) apply state-mandated development standards in reviewing ADU applications.

In addition, the revised Government Code Section 65852.2(a)(4) states that local ordinances governing ADUs outside of the Coastal Zone are null and void as of January 1, 2017, if they do not comply with this statute. The County's existing MLUDC and LUDC regulations for ADUs (referred to as residential second units) are inconsistent with Government Code Section 65852.2 and, therefore, are null and void.

Government Code Section 65852.2(j) states, "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 ..." Therefore, existing provisions in a certified Local Coastal program (LCP) continue to apply to ADU applications within the Coastal Zone.

Thus, until the County amends its zoning ordinances to conform to Government Code Section 65852.2, ADUs proposed outside the Coastal Zone are subject to the provisions in Government Code Section 65852.2, and those proposed within the Coastal Zone are subject to the County's existing Article II regulations for residential second units (RSUs).

The State legislature is currently considering Assembly Bill (AB) 2890, which proposes to amend Government Code Section 65852.2 and would affect the County's ADU ordinance amendments. In part, AB 2890 would (1) generally limit the ability of local agencies to impose size restrictions on ADUs, including minimum lot size requirements, (2) shorten the 120-day application review period to 60 days, and (3) further streamline the permit process for qualifying ADUs within residential and mixed-use zones. Staff will continue to track the State legislature's progress on AB 2890 and its implications for the County's ADU regulations.

2.0 Previous Board Direction

On September 12, 2017, the Board directed staff to address six issues related to the proposed ADU ordinance amendments. Accordingly, staff has analyzed and made a recommendation for each issue discussed below.

2.1 Onsite Wastewater Treatment System (OWTS) Regulations

Issue: The Board asked staff to clarify whether Government Code Section 65852.2 limits the County's ability to continue regulating ADUs that are proposed to be served by OWTS through County Code Chapter 18C (Environmental Health Services) and the County's Local Agency Management Plan (LAMP).

Staff Recommendation: The County Environmental Health Services Division (EHS) regulates OWTS pursuant to County Code Chapter 18C and in accordance with the LAMP. In part, County Code Sections 18C-4 and 18C-6 require persons to obtain a permit from EHS to construct, reconstruct, repair, or modify any OWTS.

Government Code Section 65852.2(a)(1) states, "A local agency may, by ordinance ... Require the accessory dwelling units to comply with all of the following ... Approval by the local health officer where a private sewage disposal system is being used ..." This provision explicitly allows EHS to retain its

authority over OWTS for many types of ADUs (e.g., ADUs detached from other residential structures or contained within multifamily dwellings or additions to single-family dwellings or accessory structures).

However, Government Code Section 65852.2(e) provides that, notwithstanding Government Code Section 65852.2(a)(1), a local agency shall ministerially approve an application for a building permit for ADUs proposed within existing single-family dwellings or accessory structures on lots zoned for single-family use. The California Plumbing Code, California Building Code, and County Code Chapter 18C allowed for OWTS considerations to be taken into account during the building permit process. As a practical matter, the Planning and Development Department's land use and building permit process provides EHS with the most effective and efficient means of enforcing OWTS standards. For example, use of this process enables EHS to require applicants to account for the costs and design specifications for OWTS at the outset before the building permit is issued. However, Government Code Section 65852.2(e) may remove this regulatory mechanism for ADUs proposed within existing single-family dwellings or accessory structures. Considering such an ADU could compromise an existing OWTS and, in turn, adversely affect water quality and public health, a revised approach for these ADU projects may be necessary. EHS is exploring options to implement Chapter 18C and the LAMP for these types of ADU projects outside of the land use and building permit process.

2.2 Standards for Siting ADUs

Issue: The Board recommended that staff consider eliminating the requirement that an ADU be located no closer to the street than the principal dwelling. However, the MPC and CPC recommended retaining different variations of this requirement. Section 2.6.3, below, addresses the differences between the MPC's and CPC's recommendations and provides staff's recommendation on each.

2.3 120-Day Application Review Period

Issue: Government Code Section 65852.2(a)(3) states, "When a local agency ... receives an application for a permit to create an accessory dwelling ... the local agency shall approve or disapprove the application ... within 120 days after receiving the application." The Board asked staff to clarify this requirement.

Staff Recommendation: The 120-day period applies to planning and building permits because both can be considered a "permit to create an accessory dwelling unit." When an applicant concurrently submits the planning and building permit applications for an ADU, staff would have 120 days to process both applications. When an applicant submits the planning permit application first and later submits the building permit application, staff would have 120 days from the date each application was submitted to process each application.

The proposed ADU ordinance amendments recommended by the MPC and CPC included provisions that require the Director to act on an ADU application within 120 days following submittal of the application. (See LUDC Section 35.42.015.D.2.b in Attachment 8, MLUDC Section 35.442.015.D.2.b in Attachment 7, and Article II Section 35-142.4.2.b in Attachment 8.) However, it is not necessary nor the normal practice for County zoning ordinances to include internal deadlines. In addition, AB 2890 would shorten the statutory deadline from 120 to 60 days. Omitting the deadline from the zoning ordinances would result in one less change to the zoning ordinances should AB 2890 become law. Therefore, staff has removed these provisions from the proposed ADU ordinance amendments.

2.4 Land Use Permits (LUPs)

Issue: Government Code Section 65852.2(a)(3) states, "... the local agency shall approve or disapprove the [ADU] application ministerially without discretionary review ..." The Board asked whether requiring an LUP for a proposed ADU complies with this requirement.

Staff Recommendation: In some instances, LUP applications may involve discretionary processes, provisions, or requirements. To ensure compliance with Government Code Section 65852.2(b) and expedite the planning permit process, staff has revised the proposed LUDC and MLUDC amendments to allow all ADUs with an Exemption (if located entirely within existing buildings) or ZC (if located within a portion of an existing building or within a new building).

During the January 3, 2018, MPC hearing and the March 28, 2018, CPC hearing, staff presented the planning commissions with the option to permit all ADUs with a ZC. However, the MPC and CPC recommended that the County require a LUP for all ADUs. (See the MPC staff report, dated December 29, 2017, included as Attachment 9, and the CPC staff report, dated January 24, 2018, included as Attachment 10.)

2.5 Department of Housing and Community Development (HCD) Review

Issue: The Board directed staff to send the proposed ADU ordinance amendments to HCD for review. Accordingly, staff sent the proposed amendments to HCD on February 13, 2018, including revised MLUDC and Article II amendments from the MPC hearing of January 3, 2018. On April 12, 2018, staff sent HCD the revised LUDC and Article II amendments from the CPC hearing of March 28, 2018. Staff's correspondence with HCD, dated between February 13 and May 24, 2018, is included as Attachment 11.

HCD completed a cursory review of the proposed amendments and provided staff with the following verbal comments on April 18, 2018:

1. Clarify that ADUs are allowed where single-family or multifamily residential uses are allowed.
2. Local agencies cannot regulate an ADU with any regulations other than those contained within the ADU ordinance. HCD recommended revising the proposed amendments to eliminate references to other sections of the zoning ordinance.
3. The proposed amendments require that ADUs have side and rear setbacks "... sufficient ... for fire safety purposes." (See LUDC Section 35.42.015.F.4 in Attachment 8, MLUDC Section 35.442.015.E.4 in Attachment 7, and Article II Section 35-142.6.4 in Attachment 8.) HCD was concerned that there was no citation to the source of these setback requirements. HCD recommended adding a reference to a specific code to provide applicants with a means of compliance with fire safety clearance requirements.
4. HCD recommended revising the proposed amendments to comply with Government Code Section 65852.2(e), which only allows local jurisdictions to require a building permit (i.e., no planning permit and no local planning or zoning requirements, such as size limitations) for ADUs proposed within existing single-family dwellings or accessory structures on lots zoned for single-family use. At that time, the proposed LUDC and MLUDC amendments included floor area limitations and other zoning regulations and required a LUP for such ADUs.

Staff Recommendation: Regarding HCD's first comment, staff revised the proposed ADU ordinance amendments to allow one ADU may be allowed on the same lot as an existing or proposed single-family or multiple-family dwelling. For example, see LUDC Section 35.42.015.C.2 in Attachment 3.

Government Code Section 65852.2 does not specifically state that local agencies must adopt standalone ADU ordinances. Therefore, staff does not recommend any revisions to address HCD's second comment.

To address HCD's third comment regarding the setback requirements for ADUs, staff has added language to the proposed ordinances referencing the current, adopted edition of the California Fire Code for fire safety clearance requirements. (See LUDC Sections 35.42.015.E.5 and F.6, MLUDC Sections 35.442.015.E.5 and F.5, and Article II Sections 35-142.5.5 and 6.6 in Attachments 3, 4, and 5, respectively.)

Lastly, staff has revised the proposed amendments to eliminate planning permit requirements for ADUs located entirely within existing one-family dwellings or one-family dwelling accessory buildings, provided they meet the criteria in Government Code Section 65852.2(e). (See LUDC Section 35.42.015.E, MLUDC Section 35.442.015.E, and Article II Section 35-142.5 in Attachments 3, 4, and 5, respectively.) An ADU located entirely within an existing single-family or multiple-family building that does not comply with Government Code Section 65852.2(e) still may be allowed without a zoning permit, if the ADU meets specific objective criteria. (See LUDC Section 35.42.015.F, MLUDC Section 35.442.015.F, and Article II Section 35-142.6 in Attachments 3, 4, and 5, respectively.)

2.6 MPC vs. CPC Proposed Amendments

Issue: Nine key differences exist between the MPC's recommended MLUDC and Article II amendments and the CPC's recommended LUDC and Article II amendments. At the direction of the Board, staff has reconciled these inconsistencies and recommended one approach to be implemented countywide for each development standard.

2.6.1 Automobile Parking Lifts

Government Code Section 65852.2(a)(1)(D)(xi) and the proposed ADU ordinance amendments allow the use of mechanical automobile parking lifts to provide replacement parking when a garage, carport, or covered parking structure is converted or demolished in conjunction with the construction of an ADU.

MPC Recommendation: The MPC opposed the use of automobile parking lifts. It was concerned that such structures would be unsightly and hinder emergency evacuation and response. (See MLUDC Section 35.436.070.H.1 and Article II Section 35-114.2.a(2) in Attachment 7.)

CPC Recommendation: The CPC recommended allowing automobile parking lifts for replacement parking, in compliance with additional criteria that address public views and safety concerns. For example, a mechanical parking lift must comply with fire clearance requirements and be screened from public view. [See LUDC Section 35.36.080.H.2 and Article II Section 35-114.2.a(2) in Attachment 8.]

Staff Recommendation: Pursuant to Government Code Section 65852.2(a)(1)(D)(xi), staff revised the proposed amendments to allow automobile parking lifts for replacement parking. [See LUDC Section 35.36.080.H.2, MLUDC Section 35.436.070.H.1, and Article II Section 35-114.2.a(2) in Attachments 3, 4, and 5, respectively.] Staff also revised the proposed amendments to clarify that these replacement parking provisions shall only apply to new, detached ADUs that are not connected by any means to another structure in compliance with Government Code Sections 65852.2(d) and -(e).

2.6.2 Historic Landmarks Advisory Commission (HLAC) Review

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments retain the HLAC review requirements, which state that HLAC must review any application for an ADU that would be "... located entirely or partially within a building that is 50 years old or greater ..." (See

MLUDC Section 35.442.015.F.5 and Article II Section 35-142.7.5 in Attachment 7 for complete language.)

CPC Recommendation: In contrast, the CPC recommended that the Director may forward such applications to HLAC for review. (See LUDC Section 35.42.015.G.5 and Article II Section 35-142.7.5 in Attachment 8 for complete language.)

Staff Recommendation: HLAC only meets once a month. Due to time constraints with the State-mandated 120-day application review period, staff revised the proposed amendments to include the CPC's recommended language and only require HLAC review if determined necessary by the Director. (See LUDC Section 35.42.015.G.7, MLUDC Section 35.442.015.G.6, and Article II Section 35-142.7.7, in Attachments 3, 4, and 5, respectively.)

2.6.3 Location on Lot

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments retain the development standards for siting ADUs on a lot, which state that detached ADUs "... shall not be located closer to the...street than the principal dwelling ..." (See MLUDC Section 35.442.015.F.6 and Article Section 35-142.7.10.a in Attachment 7.)

CPC Recommendation: The CPC recommended that the proposed LUDC and Article II amendments include the following development standards for siting detached ADUs based on lot size (Attachment 8, LUDC Section 35.42.015.G.6 and Article II Section 35-142.7.6):

- a. For lots that are less than two acres, a detached accessory dwelling unit shall not be located closer to the principal abutting street than the principal dwelling unless other zoning provisions such as setback requirements would prohibit compliance with this requirement.
- b. For lots that are two acres or larger but not larger than 20 acres, a detached accessory dwelling unit shall not be located closer to any property line than the lesser of 100 feet or the distance from the principal dwelling to that boundary line unless other zoning provisions such as setback requirements, or the location of existing development on the lot including agricultural operations, would prohibit compliance with this requirement.
- c. For lots that are larger than 20 acres, the location of a detached accessory dwelling unit is not restricted provided the location complies with zoning requirements ...

Staff Recommendation: Typically, the location of ADUs is more critical on smaller lots that adjoin public streets and, therefore, are more visible. To provide flexibility to property owners with larger lots, staff revised the proposed amendments to include the CPC's less restrictive development standards for regulating the location of detached ADUs. (See LUDC Section 35.42.015.G.8, MLUDC Section 35.442.015.G.7, and Article II Section 35-142.7.8 in Attachments 3, 4, and 5, respectively.) Alternatively, the Board has the option to eliminate these location standards.

2.6.4 Maximum Living Area

Government Code Section 65852.2(c) allows local agencies to establish minimum and maximum unit size requirements for attached and detached ADUs. In addition, Government Code Section 65852.2(a)(1)(D)(iv) states that ADU ordinances must require that "[t]he total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling

living area or 1,200 square feet.” The MPC and CPC recommended different versions of these maximum living area requirements.

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments include the following maximum living area requirements for ADUs located either partially within existing buildings or within new buildings (See MLUDC Section 35.442.015.F.7 and Article II Section 35.142.7.6 in Attachment 7):

<u>Lot Area</u>	<u>Maximum Accessory Dwelling Unit Living Area</u>
<u>0 - 9,999 square feet</u>	<u>400 square feet</u>
<u>10,000 - 19,999 square feet</u>	<u>600 square feet</u>
<u>20,000 square feet - 1 acre</u>	<u>800 square feet</u>
<u>Over 1 acre to 2 acres</u>	<u>1,000 square feet</u>
<u>Over 2 acres</u>	<u>1,200 square feet</u>

CPC Recommendation: The CPC recommended that the proposed LUDC and Article II amendments include the following maximum living area requirements for ADUs located partially within existing buildings or within new buildings (See LUDC Section 35.42.015.F.7 and Article II Section 35-142.7.7 in Attachment 8):

Maximum living area. The living area of the accessory dwelling unit shall not exceed eight percent of the net lot area of the lot on which the accessory dwelling unit will be located, provided that living area of the accessory dwelling unit does not exceed 1,200 square feet.

Staff Recommendation: To provide flexibility to applicants, staff revised the proposed amendments to include the CPC’s less restrictive maximum living area requirements for ADUs located partially within existing buildings or within new buildings. (See LUDC Section 35.42.015.G.9.a, MLUDC Section 35.442.015.G.8.a, and Article II Section 35-142.7.9.a in Attachments 3, 4, and 5, respectively.)

2.6.5 Lot Coverage

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments include the following lot coverage development standard (See MLUDC Section 35.442.015.F.7 and Article II Section 35-142.7.10.b in Attachment 7):

Maximum lot coverage. The total gross floor area of all buildings located on a lot, including an accessory dwelling unit, shall not exceed 40 percent of the gross lot area on which the accessory dwelling unit is proposed to be located.

CPC Recommendation: The CPC did not recommend a similar lot coverage development standard for ADUs.

Staff Recommendation: Government Code Section 65852.2(a)(1)(B)(i) allows local agencies to impose lot coverage standards for ADUs. However, the proposed maximum living area requirements discussed above limit the size of ADUs. Imposing a lot coverage limit seems too restrictive. Therefore, staff does not recommend the MPC’s 40 percent maximum lot coverage standard, and has not included it in the proposed MLUDC and Article II amendments.

2.6.6 Owner Occupancy

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments retain the following owner occupancy requirements (See MLUDC Section 35.420.015.G.1.e and Article II Section 35-142.8.1.e in Attachment 7):

e. Residency of lot owner.

- (1) The owner of the lot shall:
 - (a) Reside on the lot, either in the principal dwelling or in the accessory dwelling unit except when:
 - (i) A disability or infirmity requires institutionalization of the owner, or
 - (ii) The Director approves in writing the owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause ...

PC Recommendation: The CPC recommended revising the proposed LUDC and Article II amendments to remove these owner occupancy requirements (Attachment 8).

Staff Recommendation: Government Code Sections 65852.2(a)(6) and (e) provide that local agencies may require owner occupancy for either the primary residence or ADU. However, based on previous comments from the Board regarding the necessity of owner occupancy requirements, staff revised the proposed amendments to eliminate these requirements for ADUs.

2.6.7 Resource Management Zone (RMZ)z

MPC Recommendation: The purpose of the RMZ zone is to limit development because of extreme fire hazards, minimum services, and/or environmental constraints, and to encourage the preservation of these areas for uses including grazing, scientific and educational study, and limited residential uses. The MPC recommended revising the proposed MLUDC amendment to prohibit ADUs in the RMZ zone. (See MLUDC Sections 35.422.030 and 35.422.050 in Attachment 7.)

CPC Recommendation: The CPC did not recommend similar revisions to the proposed LUDC amendment.

Staff Recommendation: Government Code Section 65852.2(a)(1)(D)(ii) requires ADU ordinances to allow ADUs on any lot that is "... zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling." Existing provisions in MLUDC Section 35.422.030 (Table 2-4) and LUDC Section 35.22.030 (Table 2-4) allow single-family dwellings in the RMZ zone. Therefore, to be consistent with Government Code Section 65852.2(a)(1)(D)(ii), the proposed MLUDC amendment allows ADUs in the RMZ zone. (See MLUDC Section 35.422.030.C, Table 2-4, and Table 2-6 in Attachment 4.)

2.6.8 Design Review

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments allow the Chair of the Montecito Board of Architectural Review (MBAR) to review the exterior appearance and architectural style of proposed ADUs located either partially within existing buildings or new buildings. The Chair may then provide comments to the Director regarding whether the proposed ADU complies with the design standards in the proposed amendments. (See MLUDC Section 35.422.015.F.2.b and Article II Section 35-142.7.2.b in Attachment 7.)

CPC Recommendation: The CPC did not recommend a similar role for the other three Boards of Architectural Review (BAR). Rather, the CPC authorized the Director to undertake this review. (See LUDC Section 35.82.070.1.a in Attachment 8.)

Staff Recommendation: The MPC and CPC recommended using the same design standards for proposed ADUs in Montecito and the rest of the county. However, the MPC recommended that the Chair of the MBAR be given the opportunity to provide comments to the Director regarding the design of proposed ADUs in compliance with these standards. Given that the Director would still retain final decision-making authority on ADU applications, this provision does not create a substantive difference between the proposed amendments. Therefore, staff does not recommend revisions to the proposed design review provisions.

2.6.9 Site Preparation

MPC Recommendation: The MPC recommended that the proposed MLUDC and Article II amendments include site preparation standards that limit grading to 1,500 cubic yards and the height of freestanding retaining walls to eight feet for ADUs located partially within existing buildings or new buildings. (See MLUDC Section 35.442.015.F.11 and Article II Section 35-142.7.10.c in Attachment 7.)

CPC Recommendation: The CPC did not recommend similar standards for the proposed LUDC and Article II amendments.

Staff Recommendation: The MPC's recommended site preparation standards would only apply to Montecito. Given the recent topographical changes that occurred as a result of the January 9, 2018, debris flow event, these standards may unreasonably limit the development of ADUs in Montecito if they were adopted. Therefore, staff has removed the site preparation standards from the proposed MLUDC and Article II amendments.

3.0 California Coastal Commission (CCC) Comments

Staff submitted the proposed Article II amendments to the CCC staff for review and comment on December 22, 2017. The CCC staff provided the comments shown below (Attachment 12).

1. The CCC staff expressed concern regarding the lack of parking requirements for ADUs (Article II Section 35-142.6.3, Attachment 12). The CCC staff suggested that staff analyze "... whether the lack of required parking spaces for ADUs will adversely impact [coastal] public access parking, particularly within the residential zones such as multi-family residential and the medium and high density student residential zones."
2. For lots zoned AG-I and AG-II (Attachment 12, Article II Section 35-142.7.3.d), the CCC staff recommended "... adding specific references to Coastal Act Section 30241 and the agriculture protection policies of the LCP to ensure that the certified standards for the protection of prime agricultural soils are applied during the development of ADUs."
3. The CCC staff suggested minor revisions to the tree protection standards for ADUs (Article II Section 35-142.7.9, Attachment 12) to require that the County make a finding that avoidance is not feasible if the development of an ADU will require encroachments into the dripline (plus six additional feet) of a protected tree.
4. The CCC staff recommended adding more detailed language to the potable water development standards for ADUs to prevent the proliferation of private wells during times of drought (Article II Section 35-142.8.c.1, Attachment 12). Specifically, the CCC staff

recommended retaining the existing development standards in Article II that require new ADUs to be served by public water service or company unless the area is subject to water use restrictions.

Staff considered the CCC staff's first comment and reviewed previous parking studies associated with the Isla Vista Master Plan, including several studies conducted by consultants Fehr and Peers (*Isla Vista Parking Study*, March 2008 and August 2013). Staff concluded that new ADUs within the SR-M and SR-H zones in Isla Vista would not cause negative impacts to coastal access parking. Therefore, staff did not revise the proposed Article II amendment in response to this comment. To address comments 2 through 4, staff has revised the proposed Article II amendment to include language recommended by the CCC staff.

4.0 Tree Protection

The proposed ADU ordinance amendments prohibit the removal of trees associated with new ADUs. (See MLUDC Section 35.442.015.G.10 in Attachment 7 and LUDC Section 35.42.015.G.10 and Article II Section 35-142.7.10 in Attachment 8.) This standard is more restrictive than other tree protection standards in the Comprehensive Plan and zoning ordinances for residences and accessory uses.

To make this tree protection standard consistent with other existing standards, staff has revised the proposed amendments to require that tree removal or damage be avoided “[t]o the maximum extent feasible ...” and any removed or damaged trees “... shall be relocated or replaced onsite.” (See LUDC Section 35.42.015.G.12, MLUDC Section 35.442.015.G.11, and Article II Section 35-142.7.12 in Attachments 3, 4, and 5, respectively.)

Staff also corrected a minor typo and revised the proposed MLUDC and LUDC amendments to clarify that specimen trees include “mature non-native trees” instead of “mature native trees”.

5.0 Uniform Rules Amendments

The CPC and County Agricultural Advisory Committee (AAC) recommended that the Board allow ADUs on lands subject to land conservation contracts. (See Attachment 8 and the AAC comment letter dated April 11, 2018, included as Attachment 13.) Accordingly, staff prepared Uniform Rules amendments to allow ADUs as a compatible use on agricultural preserve contracted lands and made other minor text revisions for clarity and consistency with the zoning ordinances.

Staff presented these amendments to the County Agricultural Preserve Advisory Committee (APAC) on June 1, 2018. The APAC suggested that staff (1) revise the definition of ADU to include existing language used in the Uniform Rules, (2) remove language regarding the intent of ADUs, and (3) clarify that an ADU must be located within the applicable “non-agricultural” development envelope. Please see the approved minutes for the APAC meeting of June 1, 2018 (Attachment 14), and the staff memorandum to the APAC dated May 24, 2018 (Attachment 15), for additional information. Staff included these suggested revisions in the proposed Uniform Rules amendments. (Attachment 6 includes pages 1-22 of the Uniform Rules as the proposed amendments affect only the Definitions and Uniform Rule 1.)

Staff also sent the proposed amendments to the Department of Conservation (DOC) for review on May 3, 2018. The DOC expressed concern that persons not engaged in agriculture may occupy an ADU. However, Government Code Section 65852.2(a)(6) limits the standards that local jurisdiction's may impose on ADUs to only those standards set forth in Government Code Section 65852.2. Government Code Section 65852.2 does not include provisions for limiting the occupants of ADUs based on the type and location of employment in which the occupants are engaged. Therefore, staff is not recommending

revisions to the proposed amendments that would restrict who may occupy an ADU. Please see staff's correspondence with the DOC, dated between May 3 and May 18, 2018 (Attachment 16) for additional information.

Environmental Review:

Staff recommends that the Board determine that (1) the proposed LUDC, MLUDC, and Uniform Rules amendments affecting portions of the county within the Inland Area are exempt from environmental review pursuant to CEQA Guidelines Section 15282(h); and (2) the proposed Article II and Uniform Rules amendments affecting portions of the county within the Coastal Zone are exempt from environmental review pursuant to CEQA Guidelines Sections 15282(h) and 15265.

CEQA Guidelines Section 15282(h) provides a statutory exemption for cities or counties to adopt ADU ordinances to implement Government Code Section 65852.2. CEQA Guidelines Section 15265 statutorily exempts local government activities involving the preparation and adoption of local coastal program amendments from environmental review. Please see the attached Notice of Exemption (Attachment 2) for additional details.

Fiscal Analysis:

Funding for the ADU ordinance amendments is budgeted in the Administration and Support Division and Long Range Planning Division Budget Programs on page D-286 of the *Santa Barbara County Recommended Operational Plan, Fiscal Years 2017-18 and 2018-19*. There are no facilities impacts. The State's ADU legislation went into effect on January 1, 2017; since that date, staff has expended 1,400 hours/\$115,00 on preparing and processing the proposed ADU ordinance amendments. **Special**

Instructions:

The Planning and Development Department will satisfy all noticing requirements.

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

Attachments:

1. Findings for Approval (Case Nos. 16ORD-00000-00014, 16ORD-00000-00015, and 16ORD-00000-00016)
2. Notice of Exemption (Case Nos. 16ORD-00000-00014, 16ORD-00000-00015, and 16ORD-00000-00016, and Uniform Rules Amendments)
3. LUDC Amendment (Case No. 16ORD-00000-00014)
4. MLUDC Amendment (Case No. 16ORD-00000-00015)
5. Article II Amendment (Case No. 16ORD-00000-00016)
6. Uniform Rules Resolution and Amendment
7. MPC Action Letter, dated January 3, 2018
8. CPC Action Letter, dated March 28, 2018
9. MPC Staff Report, dated December 29, 2107
10. PC Staff Report, dated January 24, 2018
11. Correspondence with HCD, dated between February 13 and May 24, 2018

12. CCC Comments, dated March 27, 2018
13. AAC Comment Letter, dated April 11, 2018
14. Approved Minutes for the APAC Meeting of June 1, 2018
15. Staff Memorandum to the APAC, dated May 24, 2018
16. Correspondence with the DOC, dated between May 3 and May 18, 2018

Authored By:

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