

# **SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION**

## **Staff Report for Accessory Dwelling Units (ADUs), Shopping Center (SC) Rezone, and Minor Ordinance Amendments**

**Hearing Date:** September 15, 2023

**Staff Report Date:** September 7, 2023

**Case Nos.:** 23ORD-00008 and 23ORD-00009

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

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**Division:** Long Range Planning

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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 Montecito Planning Commission (MPC) to consider recommending that the County Planning Commission (CPC) and Board of Supervisors (Board):

1. Adopt an ordinance (Case No. 23ORD-00008) to amend the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the County Code, as set forth in Attachment C.
2. Determine that ordinance (Case No. 23ORD-00008) is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15282(h) of the State Guidelines for the Implementation of CEQA.
3. Adopt an ordinance (Case No. 23ORD-00009) to amend the Santa Barbara County Coastal Zoning Ordinance, Article II, of Chapter 35, Zoning, of the County Code, as set forth in Attachment D.
4. Determine that ordinance (Case No. 23ORD-00009) is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15265, and 15282(h) of the State Guidelines for the Implementation of CEQA.

The proposed CZO and MLUDC amendments revise development standards and permit procedures to implement recent changes in State legislation regarding ADUs and process other minor ordinance amendments to clarify and correct existing text provisions.

## **2.0 RECOMMENDATION AND PROCEDURES**

**2.1 Case No. 23ORD-00008.** Follow the procedures outlined below and recommend that the Board approve the MLUDC amendments (Case No. 23ORD-00008) based on the ability to make the required findings. The MPC'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 (Attachment C);
2. Recommend that the Board determine that ordinance Case No. 23ORD-00008 is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3) and 15282(h) 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 MLUDC (Case No. 23ORD-00008), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C).

**2.2 Case No. 23ORD-00009.** Follow the procedures outlined below and recommend that the CPC make a recommendation to the Board to approve the Article II amendments (Case No. 23ORD-00009) based on the ability to make the required findings. The MPC’s motion should include the following:

1. Make the required findings for approval (Attachment A), including CEQA findings, and recommend that the CPC recommend to the Board to make the findings for approval of the proposed amendments (Attachment D);
2. Recommend that the Board determine that ordinance Case No. 23ORD-00009 is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15265, and 15282(h) of the State Guidelines for the Implementation of CEQA (Attachment B); and
3. Adopt a resolution (Attachment D) recommending that the CPC recommend to the Board to adopt an ordinance to amend Article II (Case No. 23ORD-00009), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment D).

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

### 3.0 JURISDICTION

**3.1 Case No. 23ORD-00000-00008.** The MPC is considering these amendments based on Sections 65854 to 65857, inclusive, of the California Government Code and Chapter 35.494 of the MLUDC, which require that the Montecito Planning Commission, as the designated planning agency for the unincorporated area of the County located within the Inland Area portion of the Montecito Community Plan area, review and consider proposed amendments to the MLUDC, and provide a recommendation to the Board.

**3.2 Case No. 23ORD-00000-00009.** The MPC is considering these amendments based on Section 2-25.2 of Chapter 2 of the Santa Barbara County Code, which provides that the Montecito Planning Commission may make recommendations to the County Planning Commission on text amendments to Article II that will affect land use decisions within the Coastal Zone portion of the Montecito Community Plan area.

### 4.0 ISSUE SUMMARY

Over the past several years, the State legislature has recognized the importance of creating ADUs and JADUs to increase housing production and has continuously adopted legislation to reduce barriers and streamline permit processing. On September 28, 2022, Assembly Bill (AB) 2221 and Senate Bill (SB) 897 amended Government Code (GC) Sections 65852.2 and 65852.22 related to the permitting and review of ADU and JADUs. These bills became effective on January 1, 2023, at which time certain provisions of the County’s ADU ordinances for the Inland Area (i.e., MLUDC and LUDC) became inconsistent with State law.

In 2023, the Board directed staff to initiate amendments to the LUDC, MLUDC, and CZO in order to comply with the recent legislation. Accordingly, staff has drafted CZO and MLUDC amendments (Attachments C and D, respectively), as well as an LUDC amendment that staff will present to the County Planning Commission (CPC) and Board. The proposed MLUDC and LUDC amendments contain identical development standards for ADUs and JADUs; the CZO contains some differences to ensure consistency with the California Coastal Act. In addition, the CZO amendments include the uncertified 2021 amendments, combined with further updates in accordance with the recent legislation. A strike-through version showing the uncertified amendments from 2021 is included as Attachment D-2.

Consistent with State ADU and JADU law, the proposed amendments include updated development standards applicable to ADUs and JADUs. Additionally, several updates are proposed in order to clarify existing regulations based on learned experience and remove barriers to the construction of ADUs that provide marginal or no clear benefit. Some of the significant changes include the following:

- Increased height allowance for certain ADUs, including the ability for ADUs to be stacked above other accessory structures;
- Clarifying setback requirements, including front setbacks;
- Clarifying how floor area is calculated and providing an allowance for minor architectural features to be added to ADUs without triggering additional permit requirements; and
- Eliminating regulations on the location of ADUs relative to the principal dwelling provided all other setback requirements are met.

Section 5.2 below, discuss these and other changes in more detail.

Finally, staff prepared minor amendments to the MLUDC and CZO that include: (1) clarifying that exemptions are not appealable; (2) clarifications to existing development standards related to detached accessory structures; and (3) eliminated references to the Shopping Center (SC) zone district in the CZO. Section 5.3, below, discusses these minor amendments in more detail.

## **5.0 PROJECT INFORMATION**

### **5.1 Background**

On October 9, 2019, Governor Newsom approved three bills (AB 68, AB 881, and SB 13, codified in GC Sections 65852.2 and 65852.22) to further streamline the ADU permit process and reduce the development standards for ADUs and JADUs, which became effective on January 1, 2020. To comply, staff prepared zoning ordinance amendments to conform to these laws, which the Board adopted on May 18, 2021. The amendments became effective in the inland areas on June 17, 2021, while the coastal zone amendments remain uncertified by the CCC. On September 22, 2021, County staff sent the CZO amendments to the CCC for review and certification. Upon review, CCC staff submitted a Non-filing letter to County staff on September 29, 2021, requesting additional information and further analysis of the effect of the ordinance amendment on coastal access parking. Given the subsequent changes to state law and the need to revise the ordinance to address the parking issue to preserve coastal access, P&D staff elected to incorporate further updates to the CZO ordinance through the local adoption process before resubmitting to the CCC for review and certification.

While the 2019 legislation significantly streamlined the permit process for ADUs, State legislators were concerned that local jurisdictions' ordinances remained burdensome and restricted the development of

ADUs. As a result, AB 2221 and SB 897 (codified in GC Sections 65852.2 and 65852.22) were approved on September 28, 2022, and went into effect on January 1, 2023. The new legislation permits certain types of ADUs to have increased height allowances, allows greater flexibility in ADU placement on a property, and streamlines the process of obtaining an ADU permit with a 60-day turnaround timeline.

Section 5.2, respectively, below, discuss the changes that apply to ADUs and JADUs subject to AB 2221 and SB 897.

**5.2 Changes to ADU and JADU Development Standards**

The proposed amendments contain provisions that apply to applicable ADUs and JADUs. Where possible, staff maintained existing development standards from the previous ADUs ordinances. However, certain development standards were deleted or revised in order to comply with State law and clarify requirements that have either caused confusion or been too limiting. Table 2 summarizes the major changes to the County’s existing development standards to comply with the changes approved in AB 2221 and SB 897 (GC Sections 65852.2 and 65852.22).

**Table 1 – Comparison of New State Law vs. Proposed Local Development Standards**

Development Standard	State Law	Existing Standard	Proposed Standard
Height	<p><b>Detached ADU:</b> Up to 18 feet (if located within one-half mile walking distance of a major transit stop or on a lot with an existing or proposed multifamily, that is two stories high)</p> <p><b>Attached ADU:</b> Up to 25 feet (if the ADU is attached to the primary dwelling, the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower)</p>	<p><b>New construction attached and detached ADUs:</b></p> <ul style="list-style-type: none"> <li>• 16 feet - Detached</li> <li>• Height of principal dwelling - Attached</li> <li>• 25 feet for two-story detached ADU</li> </ul>	<p><b>New construction attached ADUs:</b> Same as State Law</p> <p><b>New construction ADUs:</b></p> <ul style="list-style-type: none"> <li>• Same as State Law</li> <li>• Allows stacking up to 25 feet</li> </ul>
Setbacks (front)	<p><b>ADU conversions:</b> No setbacks</p> <p><b>New construction attached and detached ADUs:</b> May encroach into front setback if it prevents the construction of an 800 sq. ft. ADU</p>	<p><b>ADU conversions:</b> Same as State law</p> <p><b>New construction attached and detached ADUs:</b> comply with front setbacks of the applicable zone</p>	<p><b>ADU conversions:</b> Same as State law</p> <p><b>New construction attached and detached ADUs:</b> Same as State law</p>

### 5.3 Other Amendments

The proposed ordinances also include minor amendments to correct and clarify the MLUDC and CZO for the MPC's consideration and recommendation to the Board:

- An amendment to clarify that projects that are determined to be exempt from a planning permit by the P&D Director are not subject to appeal;
- Amendments that correct and clarify existing development standards related to detached accessory structures in the Montecito area (i.e., clarify height restrictions, gross floor area, and footprint limitations); and
- Amendments that eliminate references to the Shopping Center (SC) zone district in the Coastal Zone.

The proposed amendment to remove reference to the SC zone is part of a broader change to the County's zoning codes that will include eliminating the SC zone district that currently applies to in the inland portion of the County and rezoning those properties to the Retail Commercial (C-2) Zone. The uses allowed in the SC Zone are more limited than those in the C-2 Zone, even though the types of allowed uses are largely the same. The limitations on use and nuances in the use regulations have presented, and continue to present, a barrier to the viability, development, and redevelopment of the SC Zoned areas that does not exist for the similarly situated areas in the C-2 Zone. Elimination of the SC Zone will not prevent the existing established shopping centers from expanding, nor would it preclude the existing undeveloped properties currently zoned SC from being developed as a multi-tenant commercial center under the C-2 provisions similar in nature to that of a shopping center.

The complete text of the ordinance amendments are included in Attachment C-1 (MLUDC), and Attachment D-1 (CZO). Deleted text is shown in strikethrough and new text is shown underlined.

## 6.0 PROJECT ANALYSIS

### 6.1 Environmental Review

**6.1.1 Case No. 23ORD-00008.** The proposed amendments to the MLUDC are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3) and 15282(h) of the State Guidelines for Implementation of CEQA. CEQA Section 15282(h) provides a statutory exemption for cities or counties to adopt ADU ordinances to implement GC Section 65852.2. Consistent with Section 15061(b)(3), there is no possibility that the proposed minor ordinance amendments will have a significant effect on the environment. As explained further in Attachment B, no significant environmental impacts would occur as a result of these ordinance amendments.

**6.1.2 Case No. 23ORD-00009.** The proposed amendments to the CZO are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3), 15265, and 15282(h) of the State Guidelines for Implementation of CEQA. State CEQA Guidelines Section 15282(h) provides a statutory exemption for cities or counties to adopt ADU ordinances to implement GC Section 65852.2. State CEQA Guidelines Section 15265 statutorily exempts local government activities involving the preparation and adoption of local coastal program amendments from environmental review. Finally, Section 15061(b)(3) states “[w]here it can be seen with

certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” As explained further in Attachment B, no significant environmental impacts would occur as a result of these ordinance amendments.

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

## **6.2 Policy and Ordinance Consistency**

As discussed in the Findings for Approval (Attachment A), the proposed amendments are consistent with the Comprehensive Plan, Coastal Land Use Plan (CLUP), CZO, and MLUDC because they implement Program 1.4 (Tools to Incentivize High-Quality Affordable Housing) of the *2015-2023 Housing Element Update* (Housing Element) and update the zoning ordinances to be consistent with State ADU and JADU law.

The current Housing Element contains 37 programs to carry out the County’s housing goals and policies. The Board adopted the Housing Element after making a finding that it was in conformity with the other elements of the Comprehensive Plan. Program 1.4 directs the County to consider adopting land-use tools to “provide housing opportunities for all segments of the population, including ... policies to encourage the development of unit types that are affordable by design ... and ... permit streamlining efforts.” Program 1.4 identifies and encourages the development of several unit types that are affordable by design, including ADUs, infill development, and mixed-use development.

The proposed amendments implement Program 1.4 by streamlining the permit process and reducing the development standards applicable to ADUs and JADUs. The proposed amendments also reduce the development standards applicable to ADUs and JADUs in compliance with State law and to further promote the development of ADUs. For example, the proposed amendments modify the height allowance to increase the flexibility for different ADU configurations and accommodate the common practice of constructing an ADU above a garage; remove the restrictions on the placement of ADUs in relation to the principal dwelling(s) on the lot; which has created a barrier to their development in numerous instances, so long as all the setback requirements are met; and permit limited development within the front setback consistent with state law if no other physical location is available on the lot to construct an ADU of at least 800 square feet, in order to provide greater flexibility that supports the development of ADUs. In addition, the proposed amendments are consistent with the Draft 2023-2031 Housing Element Update, and will implement draft Program 10, to facilitate the development of ADU production, and draft Program 16, reducing governmental constraints to facilitate housing production, including development in commercial zones.

The proposed amendments are consistent with the remaining portions of the CZO and MLUDC that are not revised by these amendments. The proposed amendments include a provision that states where there are conflicts between the ADU or JADU standards of CZO Section 35-142 or MLUDC Section 35.442.015 and other provisions of the zoning ordinances, the standards of CZO Section 35-142 or MLUDC Section 35.442.015 shall prevail.

In the Coastal Zone, the County must consider ADU and JADU applications pursuant to GC Section 65852.2(l), which 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 ...” Thus, ADUs and JADUs proposed within the Coastal Zone must be consistent with the Coastal Act and the resource protection policies and standards contained therein, which are codified within the proposed CZO amendment.

By implementing Program 1.4 and updating the zoning ordinances to be consistent with State ADU and JADU law, the proposed amendments are consistent with the Comprehensive Plan, including the current and Draft 2023-2031 Housing Element Update and applicable community and area plans, the CLUP, the requirements of State planning and zoning laws, the CZO, and the MLUDC. Further, the other proposed amendments consist of minor clarifications and modifications to existing regulations as part of an ongoing effort to bring certain rules, regulations, and review processes up to date with County goals, and reflect current regulatory, economic, and environmental conditions. The overall objective is to make requirements clear and effective, streamline review processes, and incorporate flexibility to adapt to specific circumstances. As such, these minor amendments are consistent with the Comprehensive Plan, including the Montecito Community Plan, as well as applicable CZO and MLUDC regulations.

## **7.0 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.

### **ATTACHMENTS**

- A. Findings for Approval (Case Nos. 23ORD-00008 and 23ORD-00009)
- B. CEQA Notice of Exemption (Case Nos. 23ORD-00008 and 23ORD-00009)
- C. MLUDC Resolution and Amendment (Case No. 23ORD-00008)
  - C-1. MLUDC Amendments with Changes Shown
- D. CZO Resolution and Amendment (Case No. 23ORD-00009)
  - D-1. CZO Amendments with Changes Shown
  - D-2. CCC Uncertified CZO Amendment for Reference