



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 and
Development (P&D)
Department No.: 053
For Agenda Of: April 2, 2024
Placement: Departmental
Estimated Time: 30 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Lisa Plowman, (805) 568-2068
Director(s)
Contact Info: Alex Tuttle, (805) 568-2072

SUBJECT: California Coastal Commission's conditional certification of an amendment to the Local Coastal Program regarding the Childcare Facilities and Minor Ordinance Amendments

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

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

Consider accepting the California Coastal Commission's conditional certification of the Childcare Facilities and Minor Ordinance Amendments (Case No. 22-ORD-00005) as an amendment to the County's certified Local Coastal Program (LCP).

- a) Receive notice of the California Coastal Commission's conditional certification of an amendment to the County's LCP (Coastal Commission Case No. LCP-4-STB-23-0007-1 Childcare Facilities);
- 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 LCP, and adopting the LCP 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 State CEQA Guidelines Sections 15061(b)(3), 15265, and 15301(p) (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 November 29, 2022, the Board adopted the Childcare Facilities and Minor Ordinance Amendments (Ordinance No. 5168), which amended permit requirements of the Article II Coastal Zoning Ordinance (Article II) for the development of childcare facilities, and included minor amendments that correct and clarify existing provisions. The Board authorized staff to submit Ordinance No. 5168 to the Coastal Commission as a proposed amendment to the County's certified Local Coastal Program (LCP) on January 24, 2023. The Coastal Commission considered this amendment at their February 7, 2024 hearing and conditionally certified the amendment with four suggested modifications (Attachment 1). In the Coastal Commission 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 Exhibit 1 to the Coastal Commission staff report dated January 18, 2024 (Attachment 4).

The Coastal Commission's conditional certification will expire on August 7, 2024, six months following the date of the Coastal Commission's action on February 7, 2024, unless prior to that date the Board acts to accept the modifications. 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. While unlikely, 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 Childcare Facilities and Minor Ordinance Amendments 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 7, 2024.

Background:

On November 29, 2022, the Board adopted the Article II zoning ordinance amendments that included provisions and incentives for the development of childcare facilities, and minor amendments to include a definition for major vegetation removal, add certain permit procedure regulations related to electric vehicle charging and hydrogen fueling stations to comply with State law, and finally, correct errors and typos to existing regulations.

Coastal Commission Modifications Summary

On February 7, 2024, the Coastal Commission conditionally certified LCP Amendment LCP-4-STB-23-0007-1 with four suggested modifications, which are summarized below. The Planning and Development Department reviewed and is amenable to the Coastal Commission’s suggested modifications as they do not present significant policy and textual changes to the LCP amendment. Based on the analysis below, staff 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.

Suggested Modification 1

- Delete new exemption to Article II Section 35-51B (Exemption from Planning Permit Requirements) to allow for the development of electric vehicle charging stations and hydrogen-fueling stations to be exempt from obtaining a Coastal Development Permit (CDP).

Discussion: The proposed exemption was included to comply with Government Code Section 65850.7, which requires every city or county to adopt an ordinance that streamlines the permit process for Electric Vehicle Charging Stations. While supportive of the purpose and intent to streamline the permit process for electric vehicle charging stations or hydrogen-fueling stations, Coastal Commission staff found that exempting these projects from CDP requirements is not consistent with the categories of development that are exempt from the requirements of a CDP pursuant to Section 30610(b) of the Coastal Act and Coastal Commission regulations. In addition, Coastal Commission staff finds that the exemption is written overly broadly, and can raise issues related to protecting coastal resources, and in some cases, displacing or limiting public coastal access parking by privatization of public parking spaces for electric vehicles, as well as the loss of parking spaces for non-electric vehicle users. Further, the Coastal Commission believes that a review of these charging stations is necessary to take sea level rise into account and/or when removing native vegetation for the installation of equipment. That said, County Planning & Development (P&D) staff agreed to coordinate with Coastal Commission staff on other ways to streamline permits for electric vehicle charging stations or hydrogen-fueling stations consistent with both state law and the Coastal Act and County’s LCP. This will be done as part of a future LCP Amendment effort so as not to delay certification of the childcare amendments.

Suggested Modification 2

- Delete the proposed “Major Vegetation Removal” definition, to Article II Section 35-58 (Definitions), which is defined as “the removal of native vegetation, brush, trees, or orchards involving a cumulative total of one half-acre of land or more.”

Discussion: The proposed definition formally incorporated existing Footnote No. 25 found within the County’s Coastal Land Use Plan (CLUP) that outlines when “major vegetation removal” for non-agricultural development and agricultural development shall be subject to the hillside and watershed

protection policies of the LUP. Coastal Commission staff found that the definition is inconsistent with the Coastal Act and the LCP's definition of "development," meaning removal of any native vegetation involving a cumulative total of less than one-half acre of land would not be subject to the coastal resources protection policies of the LCP. The proposed definition was intended to provide clarity in the code, as opposed to creating new policy or requirements. However, the practical implication of not including the proposed definition is simply a continuation of existing practice, which is to continue applying the existing "Major Vegetation Removal" footnote where applicable.

Suggested Modifications 3 & 4

- Incorporate new language in Article II Section 35-143.C.2.b.2, to clarify the required permit type that day care centers serving fifty-one (51) or more children may be allowed with. The underlined language has been added to the following sentence to clarify the existing proposed text.

"2) Day care centers serving fifty-one (51) or more children may be allowed with a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits), and a revision to the existing permit (e.g., Conditional Use Permit) for the principal use of the lot."
- Clarifies proposed language in Article II Section 35-430, Table 17-2, to specify that a change of use "from a residential" to a large or small family day care home, serving children, is exempt from zoning permits.

Discussion: Suggested Modifications 3 and 4 revise the proposed amendment language to ensure consistency with the LCP, and provide clarifications to the permit requirements for childcare centers and day care homes.

Environmental Review

On November 29, 2022, the Board determined that the preparation and adoption of the Childcare Facilities and Minor Ordinance Amendments LCP amendment is exempt from environmental review pursuant to CEQA Guidelines Sections 15061(b)(3), 15265, and 15301(p) (Attachment 3).

As further explained in Attachment 3, consistent with Section 15061(b)(3), there is no possibility that the ordinance amendments will have a significant effect on the environment. CEQA Guidelines Section 15301(p), categorically exempts "use of a single-family residence as a small family day care home" as defined by Health & Safety §1596.78. Furthermore, Section 15265, the statutory exemption for the adoption of coastal plans and programs, including amendments thereto, provides that compliance with CEQA is the responsibility of the California Coastal Commission.

In addition, the four Coastal Commission suggested modifications to the Childcare Facilities and Minor Ordinance Amendments do not present any new information or proposed changes that will alter the Notice of Exemption that the Board accepted on November 29, 2022 (Attachment 3). Therefore, the Board should find that a new environmental document is not required, and the Article II amendments do not require subsequent environmental review.

Fiscal and Facilities Impacts:

Funding for this project is budgeted in P&D's Long Range Planning Budget Program on page 318 of the County of Santa Barbara Fiscal Year (FY) 2023-24 Adopted Budget. There are no facilities impacts.

Special Instructions:

P&D will fulfill noticing requirements.

The Clerk of the Board shall provide a copy of the signed resolution, and minute order, to P&D, attention: Corina Venegas-Martin. The ordinance shall not be sent to Municode for codification until requested by P&D staff.

Attachments:

1. Coastal Commission Action Letter, Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-23-0007-1 (Childcare Facilities), dated February 8, 2024.
2. Board of Supervisors Resolution to accept the Coastal Commission's certification of the Local Coastal Program amendment with modifications
Exhibit A – Article II Coastal Zoning Ordinance Amendment
3. Notice of Exemption, dated November 29, 2022
4. Coastal Commission Staff Report, dated January 18, 2024

Authored by:

Corina Venegas-Martin, Planner, Long Range Planning Division (805) 884-6836