



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: November 29, 2022
Placement: Departmental
Estimated Time: 50 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: Dan Klemann, (805) 568-2072

SUBJECT: 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: That on November 29, 2022, the Board consider the County Planning Commission (CPC)-and Montecito Planning Commission (MPC)-recommended ordinance amendments to the County Land Use and Development Code (LUDC), Montecito Land Use and Development Code (MLUDC), and Coastal Zoning Ordinance (Article II) (as applicable) to revise the permitting and development standards for childcare facilities and implement a series of amendments that address emerging issues and correct and clarify existing language. On November 29, 2022, the Board's actions should include the following:

- a) Make the required findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1);
- b) Determine that as reflected in the CEQA findings (Attachment 2), adoption of the LUDC (Case No. 22ORD-00000-00004), Article II (Case No. 22ORD-00000-00005), and MLUDC (Case No. 22ORD-00000-00006) are exempt from provisions of CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15162, and 15301(p); and
- c) Adopt the ordinances to amend the LUDC (Attachment 3, Case No. 22ORD-00000-00004), Article II (Attachment 5, Case No. 22ORD-00000-00005, including a correction), and MLUDC (Attachment 7, Case No. 22ORD-00000-00006).

Summary Text:

On September 14, 2021, the Board directed P&D to prepare zoning ordinance amendments that include provisions and incentives for the development of childcare facilities. The Board requested staff to prioritize the child care amendments by processing them separately from, and prior to, certain other ordinance amendments that the Board has requested.

Pursuant to the Board’s direction, staff prepared amendments that will revise the permitting and development standards for Small and Large Family Day Care facilities to align them with State law (Senate Bill 234, Chapter 244, Statutes of 2019; Health and Safety Code § 1596.72 et al). The amendments also include the following changes to the permitting requirements for day care homes and centers that are based (in part) on recommendations from subject matter experts in the day care industry:

- Allow “by right” large family day care homes for 14 or fewer children in all dwellings
- Allow smaller day care centers of 50 children or less with a Land Use Permit (LUP) in the inland area and a Coastal Development Permit in the Coastal Zone instead of a Conditional Use Permit (CUP)
- Relaxing certain standards for child care centers located in or at public/quasi-public facilities that are used for assembly uses (e.g., schools, churches, conference centers, community centers, or clubhouses)

Finally, the ordinances include (1) a new zoning permit exemption for electric vehicle charging stations, including hydrogen fueling stations, that comply with Government Code Section 65850.7, and (2) minor, disparate amendments to correct and clarify existing regulations, and ensure that the regulations keep pace with current trends, policies, and State law.

The proposed, draft ordinances to implement these changes to the LUDC, Article II, and MLUDC are included as Attachments 4 (LUDC), 6 (Article II), and 8 (MLUDC) to this Board letter. The final ordinances that include the changes to the LUDC, Article II, and MLUDC without track-changes are included as Attachments 3 (LUDC), 5 (Article II), and 7 (MLUDC) to this Board letter.

Background:

Proposed Amendments

The draft amendments to implement the changes to child care regulations described below are shown in strikethrough and underlined text in Attachments 4, 6, and 8. The final text of the proposed ordinance amendments are included in Attachments 3, 5, and 7.

Small and Large Family Day Care Homes

Pursuant to Health and Safety Code § 1596.78, the use of a large family day care home must be treated as a residential use of property for purposes of all local ordinances. The ordinance amendments comply with this requirement as they would exempt small and large family day care homes within a residence in all zoning districts. Under the current ordinance, a large family day care home is not classified as a residential use of property, requires approval of an LUP, and is subject to fees that diminish the availability and

profitability of operating and providing child care for up to 14 children. The proposed ordinance would revise these current requirements by easing the permit process and increasing the accessibility to locate day care homes in residential surroundings to promote a home setting conducive to healthy and safe development. Additionally, staff revised the current glossary definitions for small and large family day care homes to align with Health & Safety Code § 1596.78 and clarify that the requirements apply to homes serving children, not adults.

Finally, Health & Safety Code § 1596.78 permits a small family day care home or large family day care home in a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family day care home or large family day care home is where the family day care provider resides, and includes a dwelling or dwelling unit that is rented, leased, or owned. The recommended zoning ordinance amendments will clarify the types of dwellings in which small and/or large family day care homes are allowed.

Day Care Centers as an Accessory Use

A day care center provides supervision, education, personal care, or assistance on a less than 24-hour basis to children under 18 years of age. Currently, the LUDC requires a Minor CUP and MLUDC requires for a CUP for day care center in residential zones. Day care centers often operate as an accessory use to existing assembly uses (e.g., church or school) due to the feasibility, building layout, parking, and central location of such facilities.

The proposed ordinance amendments will allow day care centers serving up to 50 children on commercially-zoned properties, and residentially-zoned properties with assembly uses, in the Inland Area with an LUP in compliance with LUDC Section 35.82.110 (Land Use Permits) and MLUDC Section 35.472.110 (Land Use Permits), and with a Coastal Development Permit in the Coastal Zone in compliance with Article II Section 35-169 (Coastal Development Permits).

Finally, staff recommends removing existing regulations that limit the use of day care centers solely to employees of a business or residents of a dwelling located on the same site as the day care center. This will afford operators of day care centers greater flexibility and options for running day care centers.

Day Care Centers in Non-Residential Zones

Currently, a Minor CUP and a CUP is required to allow a day care center as a principal use in non-residential zones. These non-residential zones include:

- Resource Management (RMZ)
- Neighborhood Commercial (CN)
- Resort Visitor Serving Commercial (CV)
- Recreation (REC)
- Public Utilities (PU)

The process for obtaining a CUP is expensive and time-consuming, presents business risks to operators, and may result in more fees and conditions (i.e., restrictions) that can render projects infeasible. The new LUP requirement for day care centers of up to 50 children is intended to remove these limitations and increase the number of viable locations for day care centers.

Minor Amendments

The ordinances include minor amendments to the LUDC, MLUDC, and Article II. The minor amendments include correcting errors and typos to existing regulations and updating regulations to comply with State law. The following table identifies all of the minor amendments to the zoning ordinances that the County Planning Commission and Montecito Planning Commission considered for the Board’s adoption.

AMENDMENT TOPIC		APPLICABILITY		
		County Land Use and Development Code (LUDC)	MLUDC	ARTICLE II
1	Exempt Electrical Vehicle Charging Stations and Hydrogen-Fueling Stations	√	√	√
2	Correct Accessory Structure Rear Setback Requirement		√	
3	Home Occupation Correction	√		
4	Delete LUDC Section 35.42.180, Historical Parks	√		
5	Amend Automobile Service Station Definition	√		
6	Correct Typo in Mixed-Light Cultivation Definition			√
7	Add Major Vegetation Removal Definition			√
8	Correct Accessory Storage Section Number Reference			√
9	Correct Section Heading List for Section 35-144Q. Reasonable Accommodation			√
10	Revise Subsection Letter in Section 35-144U.C			√

The complete text of the ordinance amendments are included in Attachment 4 (LUDC), Attachment 6 (Article II), and Attachment 8 (MLUDC). Deleted text is shown in strikethrough and new text is shown underlined in red. The LUDC, MLUDC, and Article II ordinance amendments include certain minor amendments (e.g., correcting typos and renumbering subsections) which do not materially change the existing regulations but will clarify or correct existing requirements.

Environmental Review

The proposed amendments to the LUDC and MLUDC are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3) and 15301(p) of the State Guidelines for Implementation of the CEQA. 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 2, no significant environmental impacts would occur as a result of these ordinance amendments.

The proposed ordinance amendments to Article II are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3), 15265, and 15301(p) of the State Guidelines for Implementation of the CEQA. Consistent with Section 15061(b)(3), there is no possibility that the ordinance amendments will have a significant effect on the environment. 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.

Therefore, the Board should find that a new environmental document is not required and the proposed LUDC, MLUDC, and Article II amendments do not require subsequent environmental review pursuant to CEQA Guidelines Sections 15061(b)(3), 15265, and 15301(p) (Attachment 2).

Comprehensive Plan Consistency

The proposed ordinance amendments do not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including the Community Plans, or the Coastal Land Use Plan, and the adoption of the proposed ordinance amendments will not result in any inconsistencies with the adopted policies and development standards.

Despite being exempt from zoning permits, electric vehicle charging and hydrogen-fueling stations still would be required to comply with all applicable regulations pertaining to height, setbacks, resource protection, etc., of the zoning ordinances (LUDC Section 35.20.040.B.7 et seq., MLUDC Section 35.420.040.B.7, and Article II Section 35-51B.2.f. Furthermore, for uses and/or development that would require a land use entitlement (e.g., daycare centers requiring an LUP), the decision-maker must find that the project is consistent with the policies and development standards of the Comprehensive Plan, including the Community Plans and the Coastal Land Use Plan (if applicable), in order to approve the land use entitlement for the proposed use and/or development. As part of this process, a policy consistency analysis will be performed during the review of the application, and projects would not be approved unless they are determined to be consistent with applicable policies and the findings.

Planning Commission Recommendation

On October 19, 2022, the MPC voted 3-0 to recommend the Board adopt MLUDC amendments (Attachment 7) and recommended to the CPC to recommend that the Board adopt Article II amendments (Attachment 9).

Staff presented the LUDC amendments and the MPC recommended Article II amendments to the CPC on November 2, 2022. The CPC voted 4-0 to recommend the Board adopt LUDC ordinance amendments and Article II amendments (discussed further in this Board letter above) (Attachments 3 and 16).

After the November 2, 2022, CPC hearing, Staff found a citation error in the CPC approved and recommended Article II ordinance amendments. Staff revised and corrected the Article II ordinance amendments (Attachment 5) to cite the intended permit requirement for the Coastal Zone. As proposed

and reflected throughout the ordinance amendments, a day care center serving up to and including 50 (fifty) children was intended to cite a Coastal Development Permit, not a Land Use Permit.

Assuming the Board adopts the ordinances, the amendments to the LUDC and MLUDC amendments will take effect 30 days following Board adoption of the ordinance. Because the amendments to Article II constitute an amendment to the County's certified Local Coastal Program, the amendments will take effect following Coastal Commission certification of the Article II amendments (estimated 15 months following Board adoption of the ordinance).

Fiscal and Facilities Impacts:

Funding for this project is budgeted in P&D's Long Range Planning Budget Program on page 387 of the County of Santa Barbara Fiscal Year (FY) 2022-23 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 ordinances and resolution, and minute order, to P&D, attention: Corina Venegas.

Attachments:

1. CEQA Findings for Approval
2. CEQA Notice of Exemption
3. Final LUDC Ordinance Amendment for Adoption (Case No. 22ORD-00000-00004)
4. LUDC Ordinance Amendment with Changes Shown
5. Final Revised Article II Ordinance Amendment for Adoption (Case No. 22ORD-00000-00005)
6. Revised Article II Ordinance Amendment with Changes Shown
7. Final MLUDC Ordinance Amendment for Adoption (Case No. 22ORD-00000-00006)
8. MLUDC Ordinance Amendment with Changes Shown
9. Resolution of the Montecito Planning Commission (Case No. 22ORD-00000-00005)
10. Resolution of the Montecito Planning (Case No. 22ORD-00000-00006)
11. Montecito Planning Commission Action Letter, dated October 19, 2022
12. Montecito Planning Commission Staff Report, dated October 11, 2022
13. Montecito Planning Commission Memorandum, dated October 12, 2022
14. Resolution of the County Planning Commission (Case No. 22ORD-00000-00004)
15. Resolution of the County Planning Commission (Case No. 22ORD-00000-00005)
16. County Planning Commission Action Letter, dated November 2, 2022
17. County Planning Commission Staff Report, dated October 25, 2022

Authored by:

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