

COUNTY PLANNING COMMISSION
Staff Report for the
COVID-19 Temporary Ordinance Amendments Regarding Extending the Time Period for
Suspension of Compliance with Certain Requirements of Approved Permits, Nonconforming
Uses, and a Hardship Time Extension

Hearing Date: October 28, 2020

Deputy Director: Travis Seawards

Staff Report Date: October 8, 2020

Division: Development Review

Case Nos.: 20ORD-00000-00009 and
20ORD-00000-00010

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Environmental Document: CEQA Exempt
LUDC: CEQA Guidelines Sections 15061(b)(3),
15301, 15303, 15305
CEQA Exempt Article II: CEQA Guidelines
Sections 15061(b)(3), 15301, 15303, 15305,
15265

1.0 REQUEST

Hearing on the request of the County of Santa Barbara Planning and Development Department regarding ordinance amendments to the MLUDC and Article II. The proposed ordinance amendments will extend the expiration of temporary allowances to suspend compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension to accommodate physical distancing due to the COVID-19 virus. The temporary allowances are set to expire on December 16, 2020. The proposed amendments will extend the ordinance expiration date to when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions are terminated earlier by ordinance amendment.

2.0 RECOMMENDATION AND PROCEDURES

2.1 Case No. 20ORD-00000-000010

Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 20ORD-00000-000010 based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Make the required findings for approval of the LUDC ordinance amendment (Attachment A), including California Environmental Quality Act (CEQA) findings, and recommend that the Board of Supervisors make the findings for approval of the proposed ordinance amendment;

2. Recommend that the Board of Supervisors determine the LUDC ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15301, 15303, 15305, and 15061(b)(3), included as Attachment B; and,
3. Adopt a Resolution recommending that the Board of Supervisors approve Case No. 20ORD-00000-00010, an ordinance amending Section 35-1, the CLUDC, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C).

2.2 Case No. 20ORD-00000-00009

Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 20ORD-00000-00009 based upon the ability to make the required findings.

Your Commission's motion should include the following:

1. Make the required findings for approval of the Article II ordinance amendment, including CEQA findings, and recommend that the Board of Supervisors make the findings for approval of the proposed ordinance amendment (Attachment D);
2. Recommend to the Board of Supervisors that the Board determine that the Article II ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15301, 15303, 15305, 15061(b)(3), and 15265, included as Attachment E; and,
3. Adopt a resolution recommending that the Board approve Case No. 20ORD-00000-00009, an ordinance amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code (Article II) (Attachment F).

Refer back to staff if the County Planning Commission takes other than the recommended action for the development of appropriate materials.

3.0 JURISDICTION

Case No. 20ORD-00000-00010: This ordinance amendment is being considered by the County Planning Commission based on County Code, Section 2-25.1(a), California Government Code, Sections 65854 to 65857, and Chapter 35.104 of the LUDC. The County Code, Government Code, and the LUDC requires that the County Planning Commission, as the designated planning agency for the unincorporated area of the County that is located outside the Montecito Community Plan area, review and consider proposed amendments to the LUDC and provide a recommendation to the Board of Supervisors.

Case No. 20ORD-00000-00009: This ordinance amendment is being considered by the County Planning Commission in compliance with Section 2-25.2 of Chapter 2 of the Santa Barbara County Code. Section 2-25.2 provides that the County Planning Commission review and consider proposed amendments to Article II that will affect land use decisions within the coastal zone portion of the County and provide a recommendation to the Board of Supervisors.

4.0 ISSUE SUMMARY AND BACKGROUND

On June 16, 2020, the Board of Supervisors approved the Temporary Development Standard Suspension Ordinance Amendments to implement regulations regarding the temporary suspension of compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension in order to protect public health and support a phased re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The ordinance established that the temporary authorization will expire on December 16, 2020, or when the proclaimed Santa Barbara County Local Emergency from COVID-19 is terminated, whichever is earlier.

Since the COVID-19 emergency is still in effect, the proposed ordinance amendments will extend the expiration of these temporary allowances to when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (LUDC Sections 35.84.040.A.1, 35.84.030.D.8, 35.84.040.F, 35.101.020.B.4, and 35.108.090.C; Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated earlier by ordinance amendment.

The ordinance amendment text is contained in Attachment C (LUDC) and Attachment F (Article II). Proposed additions are underlined.

5.0 PROJECT ANALYSIS

5.1 Environmental Review

The proposed ordinance amendments, Case Nos. 20ORD-00000-00010 and 20ORD-00000-00009, can be found exempt from environmental review based upon Sections 15301, 15303, 15305, and 15061(b)(3) of the CEQA Guidelines.

CEQA Guidelines Section 15301 [Existing Facilities] states that a project is exempt from CEQA if the project “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.”

CEQA Guidelines Section 15303 [New Construction or Conversion of Small Structures] states that a project is exempt from CEQA if the project “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and

facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.”

CEQA Guidelines Section 15305 [Minor Alterations in Land Use Limitations] states that a project is exempt from CEQA if the activity consists of “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density[.]”

CEQA Guidelines Section 15061(b)(3) [Review for Exemption] states that a project is exempt from CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where 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.” The project is a request to extend the expiration date of an existing ordinance, and therefore there is no activity that will have a significant effect on the environment.

CEQA Guidelines Section 15265 [Adoption of Coastal Plans and Programs] is also applicable to Article II (Case No. 20ORD-00000-00009) in that it does not apply to activities and approvals pursuant to the California Coastal Act by any local government, as defined by Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program. This section shifts the burden of CEQA compliance from the local agency to the California Coastal Commission.

See Attachments B and E to this staff report for a detailed discussion of the exemption.

5.2 Comprehensive Plan Consistency

The scope of proposed ordinance amendments is to extend the expiration date of the Temporary Development Standard Suspension Ordinance Amendments adopted by the Board on June 16, 2020. Whereas the ordinance is set to expire on December 16, 2020, the proposed amendments will extend the ordinance expiration to when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (LUDC Sections 35.84.040.A.1, 35.84.030.D.8, 35.84.040.F, 35.101.020.B.4, and 35.108.090.C; Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated earlier by ordinance amendment. No other changes are proposed, and as such, the ordinance will continue to allow temporary change(s) to a project necessary to ensure physical distancing, protect public health, and support a re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. However, the ordinance would otherwise require a project to comply with its approved project description, conditions of approval, applicable development standards, and the Comprehensive Plan, including Coastal Land Use Plan policies. The Comprehensive Plan Consistency in Section 7.2 of the staff report for the Temporary Development Standard Suspension Ordinance Amendments, dated May 27, 2020 and incorporated herein by reference (Attachment G) remains applicable to these

amendments; and therefore, the proposed amendments do not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including the relevant community plan(s), or the Coastal Land Use Plan.

5.3 Zoning Ordinance Compliance

The Zoning Ordinance Compliance analysis in Section 7.3 of the staff report, dated May 27, 2020 and incorporated herein by reference (Attachment G) remains applicable. The proposed ordinance amendments are consistent with the LUDC and Article II as they only extend the expiration date of the COVID-19 ordinance amendments, passed by the Board of Supervisors on June 16, 2020. Since the COVID-19 emergency is still in effect, the ordinance would allow a temporary suspension of specific development standards until the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions are terminated earlier by ordinance amendment.

6.0 PROCEDURES

County LUDC: The County Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance amendment to the Board of Supervisors.

Article II: The County Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance amendment to the Board of Supervisors. Such revisions may include implementation of recommendations by the Montecito Planning Commission.

7.0 APPEALS PROCEDURE

Ordinance amendments recommended for approval or denial are legislative acts that are automatically forwarded to the Board of Supervisors for final action. Therefore, the ordinance amendments are not subject to appeal.

ATTACHMENTS

- A. 20ORD-00000-00010 (LUDC) Findings
- B. 20ORD-00000-00010 (LUDC) Notice of Exemption
- C. 20ORD-00000-00010 (LUDC) Resolution and Proposed Ordinance
- D. 20ORD-00000-00009 (Article II) Findings
- E. 20ORD-00000-00009 (Article II) Notice of Exemption
- F. 20ORD-00000-00009 (Article II) Resolution and Proposed Ordinance
- G. County Planning Commission Staff Report for COVID-19 Ordinance Amendments, dated May 27, 2020