



**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:** 04/19/2016  
**Placement:** Set hearing  
**Estimated Tme:** 30 minutes (on 05/03/2016)  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Director Glenn Russell, Ph.D. (805) 568-2085  
Contact Info: Dianne Black, Assistant Director (805) 568-2086

**SUBJECT:** 2016 General Package Ordinance Amendments

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrences:** N/A

**Recommended Actions:**

On April 19, 2016, set a hearing for May 3, 2016 to consider the recommendations of the County and Montecito Planning Commissions to approve Case Nos. 15ORD-00000-00002, 15ORD-00000-00003 and 15ORD-00000-00004 which would amend, respectively, the County Land Use and Development Code, the Montecito Land Use and Development Code, and the Article II Coastal Zoning Ordinance, to implement a series of amendments that revise existing procedures and regulations, add new procedures and regulations, and correct and clarify existing language.

On May 3, 2016, your Board's action should include the following:

**a) Case No. 15ORD-00000-00002 (County LUDC Amendment):**

- i) Make the findings for approval, including CEQA findings, of the proposed ordinance (Attachment 1);
- ii) Determine that the adoption of this Ordinance is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment 2); and,
- iii) Adopt an Ordinance (Case No. 15ORD-00000-00002) amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 3).

**b) Case No. 15ORD-00000-00003 (Montecito LUDC Amendment):**

- i) Make the findings for approval, including CEQA findings, of the proposed ordinance (Attachment 4);
- ii) Determine that the adoption of this Ordinance is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment 5);
- iii) Adopt an Ordinance (Case No. 15ORD-00000-00003) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 6).

**c) Case No. 15ORD-00000-00004 (Article II Coastal Zoning Ordinance Amendment):**

- i) Make the findings for approval, including CEQA findings, of the proposed ordinance (Attachment 7);
- ii) Determine that the adoption of this Ordinance is categorically exempt from the California Environmental Quality Act pursuant to Sections 15061(b)(3) and 15265 of the Guidelines for Implementation of CEQA (Attachment 8); and,
- iii) Adopt an Ordinance (15ORD-00000-00004) amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment 9).

**Summary Text:**

**1.0 General information.**

The Planning and Development Department is committed to keeping the zoning ordinances accurate and up-to-date by routinely processing amendments that address emerging issues and revise existing language in order to ensure that the regulations keep pace with current trends and policies, as well as State Law. The following amendments add new development standards and restrictions pertaining to specific land uses, clarify existing procedures and requirements, correct errors and omissions, and implement revisions in State law. The amendments to the County Land Use and Development Code (County LUDC) and Montecito Land Use and Development Code (Montecito LUDC) also delete standards and references that only apply within the Coastal zone or merely distinguish between coastal and non-coastal requirements since the Article II Coastal Zoning Ordinance (Article II) continues to be the implementing ordinance of the County's certified Local Coastal Program. These latter revisions are not discussed in this Board Agenda letter but are shown in the complete texts of the ordinance amendments that are contained in Exhibit 1 of Attachment 3, Exhibit 1 of Attachment 6, and Exhibit 1 of Attachment 9. Proposed deletions are shown by striking through the text and proposed additions are underlined. The use of an ellipsis (...) indicates that sections where the text is unchanged and has been omitted for the sake of brevity. The amendments to the County LUDC and the Montecito LUDC will take effect 30 days following the adoption of the ordinances by the Board of Supervisors. Because the amendment to Article II constitutes an amendment to the County's certified Local Coastal Program, the amendment will take effect only after the Coastal Commission grants final certification to the amendment.

**2.0 Proposed amendments.**

The following table shows which of the proposed amendments amend the County LUDC (CLUDC), the Montecito LUDC (MLUDC), and/or Article II.

AMENDMENT TOPIC	APPLICABILITY		
	CLUDC	MLUDC	Article II
Agricultural employee proof of employment	✓		✓
Cabaña requirements	✓	✓	✓
Community Care facilities	✓	✓	✓
CUP Design Review requirements	✓	✓	✓
Lot Line Adjustments standards for approval	✓	✓	✓
Medical marijuana cultivation regulations cross-reference	✓	✓	✓
Overlay Zone-Airport Approach	✓		✓
Overlay Zone-Growth Management	✓		
Permit exemptions	✓	✓	✓
Public safety facilities			✓
Street Frontage definition	✓	✓	
Use Determinations procedures			✓
Wastewater disposal permit requirements and standards for private systems	✓	✓	✓
Water pipelines	✓		

A summary of the proposed amendments is provided below. The summary includes references to the sections within the actual ordinances where the specific text revisions may be found. For a more complete analysis, please refer to the County and Montecito Planning Commission staff reports (Attachments 12 and 14). One of the amendment topics (Lot Line Adjustments standards for approval) that generated some discussion at the County Planning Commission hearing is discussed in more detail within the following summary descriptions.

**2.1 Agricultural Employee Proof of Employment** (County LUDC - Exhibit 1 of Attachment 3 SECTIONS 34, 43, 57; Article II - Exhibit 1 of Attachment 9 SECTIONS 6, 8, 9, 11, 12, 22, 23, 32).

The amendments to the County LUDC and Article II revise the existing sections that apply to agricultural employee housing by:

- Standardizing the requirements regarding submitting proof of agricultural employment and the basis for the need for agricultural employee housing for both permanent dwellings and temporary dwellings (i.e., trailers) that are allowed by either a Land Use Permit, Minor Conditional Use Permit, or Major Conditional Use Permit.
- Including examples of acceptable proof of agricultural employment.
- Allowing the submittal of proof of agricultural employment to be deferred until the identity of the resident of the housing is known.
- Deleting duplicative standards regarding the use of trailers for agricultural employee dwellings.

**2.2 Cabaña Requirements** (County LUDC - Exhibit 1 of Attachment 3 SECTIONS 36, 57, 58; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 23, 43, 44; Article II - Exhibit 1 of Attachment 9 SECTIONS 4, 5, 21).

Cabañas (pool houses) are currently allowed if they are accessory to the residential use of a property that has a pool or sport court. Cabañas may also be allowed on residential lots that are directly adjacent to the sea. Like guest houses, cabañas may contain a wetbar and a full bathroom (i.e., toilet, sink, and bathing facilities); however, cabañas may not be used as a guesthouse or for overnight accommodations. Unlike a guest house which requires a minimum lot area of one acre outside of the Montecito area or two acres within the Montecito area, there is no minimum lot size required to have a cabaña.

The Department has received applications for cabañas that are associated with sport courts such as bocce ball or sand volleyball courts, and portable spas, that are easily removed once the construction of the cabaña has been completed. This raises the possibility that the cabaña will then be used as a guesthouse even though the lot may not meet the minimum size requirement. To address this, the amendments propose to:

- Add new definitions of Sports Court and Swimming Pool that include minimum size requirements.
- Require that the cabaña may be used as a cabaña provided that the sports court or swimming pool is maintained on the lot.
- Require that if the sports court or swimming pool is abandoned or removed, then the use of the cabaña shall cease and the structure shall either be removed or converted to an allowed accessory structure within 90 days following the abandonment or removal of the sports court or swimming pool.

**2.3 Community Care Facilities** (County LUDC - Exhibit 1 of Attachment 3 SECTIONS 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 35, 57, 59; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 3, 4, 5, 6, 7, 20, 43, 45; Article II - Exhibit 1 of Attachment 9 SECTIONS 5, 6, 7, 10, 13, 14, 15, 16, 17, 18, 30, 35).

The zoning regulations regarding community care facilities (e.g., day care, special care homes) were originally added to the County's zoning ordinances in 1985 and, with the exception of permit requirements for child care, have not been significantly amended since then. Revisions are necessary to be consistent with existing State regulations regarding community care facilities. This amendment revises the existing language to:

- Be better organized and reduce repetition.
- Comply with State requirements.
- Allow day care facilities to also be used for adult day care in addition to child day care.
- Allow the review authority (person or commission with jurisdiction over the project) in their approval of a Conditional Use Permit for a non-residential day care center to modify certain development standards provided the facility is still compatible with adjacent land uses.

**2.4 CUP Design Review Requirements** (County LUDC - Exhibit 1 of Attachment 3 SECTION 55; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 41; Article II - Exhibit 1 of Attachment 9 SECTION 37).

The processing procedures for conditional use permits (CUPs) currently only specify that residential structures on lots adjacent to the sea are subject to design review by the Board of Architectural Review. However, all proposed signs and structures located within the Montecito area are subject to design review by the Montecito Board of Architectural Review. Additionally, there are several land uses that may be allowed through the CUP process (e.g., conference centers, churches, large greenhouses) that would benefit from design review in order to help ensure their compatibility with the surrounding neighborhood. Department practice has been to require that large developments allowed via a CUP are reviewed and approved by the applicable Board of Architectural Review in order to help support making the finding for approval that the “proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area.” This amendment revises the CUP processing procedures to require that:

- An application for a major CUP is subject to review by the Board of Architectural Review.
- An application for a minor CUP is subject to design review by the Board of Architectural Review only when specifically identified as being necessary by the Director or review authority. This allows minor development projects to be exempt from design review when appropriate.
- Any application for a sign or structure proposed to be located within the Montecito area is subject to design review by the Montecito Board of Architectural Review.

**2.5 Lot Line Adjustments** (County LUDC - Exhibit 1 of Attachment 3 SECTION 33; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 12; Article II - Exhibit 9 of Attachment I SECTION 24).

The existing regulations require that in order for a Lot Line Adjustment to be approved, any lot involved in the adjustment whose area equals or exceeds the minimum lot area required by the applicable zone prior to the adjustment (i.e., a conforming lot) may not become smaller than this minimum lot area as a result of the adjustment (i.e., become a nonconforming lot). However, the R-1/E-1 and R-2 zones also have a minimum lot width requirement in addition to a minimum lot area requirement. This amendment adds a new requirement that any lot involved in the adjustment whose lot width equals or exceeds the minimum lot width required by the applicable zone prior to the adjustment may not become smaller than this minimum lot width as a result of the adjustment.

During the discussion of this amendment at the County Planning Commission hearing, concern was voiced that the existing restriction regarding not allowing conforming lots to become nonconforming regarding lot area may result in having to deny lot line adjustments where there may be reasons to allow it. This restriction has been in effect since 1986 when standards for the approval of lot line adjustments were first added to Chapter 21 (Land Division) of the County Code. This restriction was re-affirmed in 2000 when lot line adjustment procedures were added to the County zoning ordinances. The purpose of including minimum standards regarding lot area and lot width is to ensure that the size and configuration of a lot is of sufficient size and width so

that a residence having an area commensurate with other residences in the same neighborhood may be constructed without having to obtain modifications to or variances from standard zoning regulations such as setbacks and building height.

**2.6 Medical Marijuana Cultivation Regulations** (County LUDC - Exhibit 1 of Attachment 3 SECTION 37; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 13; Article II - Exhibit 9 of Attachment I SECTION 31).

On January 19, 2016 the Board of Supervisors adopted an ordinance that added Article X, Medical Marijuana Regulations, to Chapter 35, Zoning, of the County Code. This amendment adds to the zoning ordinances a cross-reference to the Article X restrictions on the cultivation of medical marijuana.

**2.7 Overlay Zone - Airport Approach** (County LUDC - Exhibit 1 of Attachment 3 SECTION 25; Article II - Exhibit 1 of Attachment 9 SECTION 20).

This overlay zone currently requires that prior to the approval of a permit for development located within an airport clear zone that involves the storage of flammable liquids or hazardous materials that the applicable fire department reviews the requested permit, and that any potential hazards associated with the storage of said materials are mitigated to the reasonable satisfaction of the fire department.

This amendment revises the existing language to include the County Public Health Department in the review and approval of such permits. This recognizes that the Environmental Health Services Division of the Public Health Department has the responsibility to implement certain Federal and State laws addressing the use of hazardous materials.

**2.8 Overlay Zone - Growth Management** (County LUDC - Exhibit 1 of Attachment 3 SECTION 28).

The purpose of the Growth Management Overlay is to identify areas where a growth management ordinance has been adopted. The amendment to the County LUDC deletes this overlay zone since following the incorporation of the City of Goleta, there is no longer any area governed by the County LUDC where growth management regulations apply.

**2.9 Permit Exemptions** (County LUDC - Exhibit 1 of Attachment 3 SECTION 2; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 2; Article II - Exhibit 1 of Attachment 9 SECTIONS 1, 3, 34).

The sections of the County and Montecito LUDCs that list the types of development that are exempt from planning permits are currently divided into (1) exemptions that apply within both the Inland area and the Coastal Zone, (2) exemptions that only apply within the Inland area, and (3) exemptions that only apply within the Coastal Zone. The amendments to the County and Montecito LUDCs revise these sections to remove all regulations that pertain to the Coastal Zone and:

- Revise the existing exemption that applies to small structures to change the threshold for exemption from 120 square feet of roof area to 120 square feet of floor area to match the current Building Code language.

- Include a new exemption that provides that a change in the occupancy of a structure does not require a new planning permit if the use type does not change and the parking requirement is not increased.
- Clarify that the replacement of an existing permitted and conforming structure does not require a new planning permit provided the reconstructed structure is for the same use, is located in the same footprint, does not exceed the floor area, height, or bulk of the existing structure, and only includes minor changes to the exterior design.
- Clarify that the modification, replacement or repair of an existing onsite wastewater treatment system does not require a new planning permit provided that the modification, replacement or repair occurs in substantially the same area as the existing system.

The amendment to Article II creates a new section that specifically addresses development that does not require the issuance of a Coastal Development Permit (CDP). This new section includes the types of development that presently do not require a CDP, adds the new exemptions discussed above, and also add the following new exemptions:

- The demolition of structures that are less than 50 years old. If the structure is 50 years old or greater, then the exemption could still apply provided either the Director or the Historic Landmark Advisory Commission determines that the structure is not historically significant.
- The recordation of documents required to complete a Lot Line Adjustment provided a Coastal Development Permit was approved in conjunction with the approval of the Lot Line Adjustment and the Coastal Development Permit has not expired.
- Signs, flags and similar devices that are exempt from the Article II sign regulations, and signs that comply with the sign regulations and are proposed to be affixed to an existing structure.

## **2.10 Public Safety Facilities** (Article II - Exhibit 1 of Attachment 9 SECTIONS 5, 36).

The County and Montecito LUDCs define Public Safety Facility as “A facility that houses public safety personnel and equipment, (e.g., police, fire, paramedics). Facility may include kitchens, sleeping accommodations, and areas for equipment maintenance.” Currently, Article II does not provide for this type of use within the Coastal Zone. To provide flexibility in locating such facilities in the Coastal Zone, this amendment adds Public Safety Facility to the list of uses allowed with a Major Conditional Use Permit in all zones.

## **2.11 Street Frontage Definition Consistency** (County LUDC - Exhibit 1 of Attachment 3 SECTION 57; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 43).

When the County and Montecito LUDCs were adopted by the Board of Supervisors in 2006, the Article III Zoning Ordinance (the predecessor ordinance to the County LUDC) and the Article IV Zoning Ordinance (the predecessor ordinance to the Montecito LUDC) definitions of street frontage were included in the LUDCs. However, the definition of street frontage as it applied to signs that was located in Article I of Chapter 35 was accidentally excluded. This amendment corrects this oversight.

## **2.12 Use Determinations Procedures** (Article II - Exhibit 1 of Attachment 9 SECTIONS 2, 38).

Currently, several zones in Article II provide that in addition to the uses listed as permitted uses in the specific zone districts, the Planning Commission may determine that other uses may be allowed if they are found to be similar in character to the existing permitted uses. However, Article II does not contain any procedure for how such determinations are made. This amendment adds the existing CLUDC Use Determination process to Article II which includes noticing and public hearing requirements, and the ability to appeal the decision by the Planning Commission.

## **2.13 Wastewater Disposal Permit Requirements and Standards for Private Systems** (County LUDC - Exhibit 1 of Attachment 3 SECTIONS 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 39, 40, 41, 57, 58, 59, 61; Montecito LUDC - Exhibit 1 of Attachment 6 SECTION 3, 4, 5, 6, 7, 43, 44, 45; Article II - Exhibit 1 of Attachment 9 SECTIONS 3, 5, 6, 25, 27, 28, 29, 33, 39).

On January 6, 2015, the Board of Supervisors approved the Santa Barbara County Local Agency Management Program (LAMP) that established new County policies regarding onsite wastewater treatment systems (OWTS) which are commonly referred to as septic systems. On the same date the Board also adopted Ordinance No. 4909 that amended Chapter 18C, Environmental Health Services, of the County Code, to establish new regulations regarding the design, maintenance and permitting of OWTS. These actions by the Board require that the zoning ordinances, contained in Chapter 35, Zoning, of the County Code also be amended in order to be consistent with Chapter 18C. These zoning ordinance amendments:

- Revise the terms used to describe the different types of OWTS.
- Require that there is one acre of lot area for each dwelling proposed to be served by an OWTS.
- Require that a residential second unit may not be served by an OWTS if service by a sanitary district is available.
- Add several new definitions consistent with Chapter 18C.

## **2.14 Water Pipelines** (County LUDC - Exhibit 1 of Attachment 3 SECTIONS 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24).

Currently the County LUDC use tables include water, reclaimed water and wastewater pipelines as an allowed use but a footnote to the tables restricts the use to wastewater pipelines and includes a reference to Article 35.5 (Oil and Gas, Wind Energy and Cogeneration Facilities) regarding applicable development standards. This footnote was included in error when superseded Article III zoning ordinance was reformatted as the County LUDC. The amendment to the County LUDC deletes the footnote.

## **3.0 Planning Commission Review.**

**3.1 Montecito Planning Commission.** The Montecito Planning Commission reviewed these amendments at their February 17, 2016 hearing, and, by a unanimous vote, adopted Resolution No. 16-02 (Attachment 13) recommending that your Board adopt the amendments to the Montecito LUDC. In their motion to approve the Resolution, the Montecito Planning Commission included staff's recommendation at the hearing that the Article II ordinance



language regarding the provision of proof of agricultural employment (as discussed in Section 2.1, above) be revised to allow deferring the submittal of said proof until the identity of the agricultural employee is known.

**3.2 County Planning Commission.** The County Planning Commission reviewed these amendments at their February 24, 2016 hearing, and, by a unanimous vote, adopted Resolution Nos.16-04 and 16-05 (Attachments 10 and 11) recommending that your Board adopt the amendments to the County LUDC and Article II.

As discussed in Section 2.5, above, there was discussion at the County Planning Commission hearing regarding the existing requirement that a lot line adjustment not result in lot that does not conform to the minimum lot area requirement of the applicable zone if that lot conforms to the minimum lot area requirement prior to the adjustment. However, the vote to approve the overall amendment was still unanimous.

#### **4.0 Environmental Review:**

The County and Montecito Planning Commissions recommend that your Board determine that the proposed project is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3), and, for the amendment to the Coastal Zoning Ordinance, CEQA Guidelines Section 15265. Section 15061(b)(3), the general rule exemption, states that 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 that the activity is not subject to CEQA. Section 15265, the 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. See attached Notices of Exemption (Attachments 2, 5 and 8).

#### **Fiscal Analysis:**

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-287 of the adopted Planning and Development Department's budget for fiscal years 2015 through 2017. There are no facilities impacts at this time.

#### **Special Instructions:**

- A. The Planning and Development Department will satisfy all noticing requirements.
- B. The Clerk of the Board will provide copies of the Minute Order and signed Ordinances to the Planning and Development Department, attention Noel Langle, Senior Planner.

#### **Attachments:**

- 1. County LUDC Findings
- 2. County LUDC CEQA Notice of Exemption
- 3. County LUDC Ordinance Amendment
- 4. Montecito LUDC Findings
- 5. Montecito LUDC CEQA Notice of Exemption
- 6. Montecito LUDC Ordinance Amendment
- 7. Article II CZO Findings

8. Article II CZO CEQA Notice of Exemption
9. Article II CZO Ordinance Amendment
10. Resolution 16-04 County LUDC
11. Resolution 16-05 Article II CZO
12. County Planning Commission Staff Report dated 02/17/2016 (w/o attachments)
13. Resolution 16-02 Montecito LUDC
14. Montecito Planning Commission Staff Report dated 02/10/2016 (w/o attachments)

**Authored by:**

Noel Langle, Planner (805-568-2067)