



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: November 7, 2017
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Glenn Russell, Ph.D. (805) 568-2085
Contact Info: Dianne Black, Assistant Director (805) 568-2086
SUBJECT: California Coastal Commission's conditional certification of an amendment to the Local Coastal Program regarding the 2016 General Package Ordinance Amendment, First, Second, and Third Supervisorial Districts.

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Receive notice of the California Coastal Commission's conditional certification of an amendment to the County's Local Coastal Program (Coastal Commission Case No. LCP-4-STB-16-0038-2 2016 General Package Ordinance Amendment) with suggested modifications (Attachment 1);
- b) Adopt a Resolution acknowledging receipt of the California Coastal Commission's conditional certification with modifications, accepting and agreeing to the modifications, agreeing to issue Coastal Development Permits (CDPs) for the total area included in the conditionally certified Local Coastal Program, and adopting the Local Coastal Program Amendment with the suggested modifications (Attachment 2);
- c) Determine that this action is not subject to the California Environmental Quality Act pursuant to Public Resources Code Section 21080.9. The County relied upon CEQA Guidelines Sections 15061(b)(3) and 15265 for CEQA review of Case No. 15ORD-00000-00004, 2016 General Package Ordinance Amendment; and
- d) Direct Planning and Development Department staff to transmit the adopted Resolution to the Executive Director of the California Coastal Commission.

1.0 Background.

On May 3, 2016, the Santa Barbara County Board of Supervisors (Board) approved Ordinance No. 4964 (Case No. 15ORD-00000-00004) that amended Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, to implement new regulations and revise existing ordinance language regarding:

- Agricultural employee proof of employment.
- Allowable development and planning permit requirements.
- Airport Approach Overlay Zone.
- Cabaña requirements.
- Community Care facilities.
- Conditional Use Permit Design Review requirements.
- Medical marijuana regulations (this was a non-substantive revision that only provided a cross-reference to Article X).
- Permit exemptions.
- Public safety facilities.
- Use Determinations procedures.
- Wastewater disposal permit requirements and standards for private wastewater disposal systems.

On June 21, 2016, the Board adopted Resolution No. 16-161 submitting Ordinance No. 4964 to the Coastal Commission as a proposed amendment to the County's certified Local Coastal Program for review and certification. The Coastal Commission considered this amendment at its May 11, 2017, hearing and conditionally certified the amendment with 12 suggested modifications. (See Attachment 1 beginning on page 3.) These suggested modifications are discussed in the Section 3.0 (Analysis) of this Board letter. The Coastal Commission's conditional certification will expire on November 11, 2017, six months following the date of the Coastal Commission's action on May 11, 2017, unless prior to that date the Board accepts the modifications.

The Board may accept or reject the suggested modifications. If the Board accepts the modifications by adopting the attached resolution (Attachment 2), then following receipt of the resolution 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. If, for some reason, a majority of the Coastal Commission members do not agree with 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 Local Coastal Program, then the Coastal Commission will review the County's action in a subsequent public hearing as if it were a re-submittal.

The Board has the following options if the Board decides to not accept the suggested modifications:

- Adopt amendments to the modifications suggested by the Coastal Commission and re-submit the 2016 General Package Ordinance Amendment for certification.
- Reject the modifications without adopting any amendments to the language as modified by the Coastal Commission, and request that the Coastal Commission not certify the proposed

amendment to the Local Coastal Program.

- Allow the Coastal Commission's conditional certification with the suggested modifications expire by taking no action prior to November 11, 2017.

2.0 Recommendation.

The Planning and Development Department reviewed the Coastal Commission's suggested modifications and recommends that the Board approve the attached resolution (Attachment 2) acknowledging receipt of the Coastal Commission's certification with suggested modifications and adopting the Local Coastal Program Amendment with the suggested modifications. This recommendation is based on the analysis of the suggested modifications contained in the following section.

3.0 Analysis.

The following provides a brief analysis of most of the California Coastal Commission's suggested modifications. Minor suggested modifications that simply correct code section citations and minor language edits, or are required for renumbering purposes, are not discussed. The actual text of the suggested modifications showing the revisions is contained in Attachment 1 [May 17, 2017, Coastal Commission Certification Letter, Santa Barbara County Local Coastal Program Amendment Case No. LCP-4-STB-16-0038-2 (2016 General Package)]. Language that the Coastal Commission is proposing to add is shown as underlined, and language that the Coastal Commission is proposing to delete is shown as struck-through. The use of an ellipsis (...) indicates ordinance language that has been omitted for the sake of brevity since the text is unchanged.

3.1 Suggested Modification 1. Suggested Modification 1 would revise Section 35-51, Applicability, of Article II as proposed to be amended by adding language to clarify that development on tidelands, submerged lands, or public trust lands, is normally not subject to regulation under Article II and instead is under the Coastal Commission's jurisdiction. Companion to Suggested Modification 1 is part of Suggested Modification 3 that would amend Section 35-51B, Exemptions from Planning Permit Requirements, of Article II to remove similar language from that section. Together, these two modifications would address the Coastal Commission's concern that an applicant may incorrectly interpret Article II to mean that any development undertaken on tidelands, submerged lands, or public trust lands is exempt from obtaining a CDP.

3.2 Suggested Modification 2. Suggested Modification 2 would delete a new Section 35-51A, Allowable Development and Planning Permit Requirements, which was proposed to be added to Article II in its entirety. This Section was proposed to be added to clarify the scope of uses that may be allowed within a particular zone, the permit required to establish each use, and the process by which uses that are not listed as allowed within a particular zone may be allowed. However, the Coastal Commission is concerned that:

- Since uses that implement important Coastal Act policies (e.g., public access-ways or trails, or habitat restoration) are not specifically listed as an allowed use in all zones within Article II, that this could be interpreted to mean that uses such as public access, recreation improvements, and restoration are not allowed in the zones in which they are not listed as allowed uses, and
- The language of proposed Section 35-51A does not provide sufficient clarity regarding

what is considered to be the principal permitted use within each zone district which determines, for some development applications, those project approvals that may be appealed to the Coastal Commission.

3.3 Suggested Modification 3. Suggested Modification 3 would revise the list of uses within Section 35-51B, Exemptions from Planning Permit Requirements, that do not require the approval of a CDP as discussed below:

- **B.1 Exemption does not apply.** The suggested modification would add language that would more closely align the language Article II as proposed to be amended with the language of the Coastal Act regarding those activities that do not require the approval of a CDP. This includes adding language that specifies that conversion of an existing development from a multiple residential unit rental use or visitor-serving commercial use to a situation involving a fee ownership or long-term leasehold (e.g., condominium conversion or motel/hotel timeshare conversion) is considered development that requires approval of a CDP.
- **B.2.c Change of occupancy.** The suggested modification would also more closely align the language of Article II as proposed to be amended with the language of the Coastal Act by clarifying that the proposed exemption from the need to obtain a CDP when the occupancy of a permitted structure changes only applies to a change in the occupancy that does not result in a change in density or intensity of land use that would otherwise require the approval of a CDP.
- **B.2.j Onsite wastewater treatment systems.** The suggested modification would delete the modification or replacement of an existing onsite wastewater treatment system (OWTS) as an exempt activity. As originally proposed by Ordinance No. 4964, the modification of an existing OWTS could involve the replacement or enlargement of any component of an onsite wastewater treatment system, including the complete reconstruction of the system. Therefore, this modification is required in order to be consistent with Sections 13250 and 13253 of the Coastal Commission's administrative regulations which require the approval of a CDP for the construction, including the reconstruction or expansion, of an OWTS.
- **B.2.l Replacement in-kind of an existing and conforming structure.** The suggested modification would delete the proposed exemption that would have allowed the replacement of an existing, permitted, and conforming structure without having to obtain a CDP 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. However, the Coastal Commission determined that this type of development is not consistent with what may be exempt from a CDP in compliance with the Coastal Act and the Coastal Commission's administrative regulations.
- **B.2.m and B.3.g Signs, flags, and similar devices.** The suggested modification would delete proposed language that would exempt, from the requirement to obtain a CDP, signs that normally are not subject to the regulations of Article II, provided the signs, including any device to which the sign would be affixed, do not exceed 35 feet in height and are not lighted. The Coastal Commission determined that this qualifies as development that requires a CDP in compliance with the Coastal Act and the Coastal Commission's administrative regulations.

- **B.4 Demolition.** The suggested modification would delete the proposed exemption that would have allowed the demolition of structures that are less than 50 years old, and structures that are more than 50 years old provided they are not historically significant, from having to obtain a CDP. The Coastal Commission also determined that this qualifies as development that requires a CDP in compliance with the Coastal Act and the Coastal Commission's administrative regulations.
- 3.4 Suggested Modifications 4 and 5.** Suggested Modifications 4 and 5 would correct errors in the adopted ordinance. As modified, the ordinance would allow trailers to be used as agricultural dwellings in both the Agriculture I (AG-I) and Agriculture II (AG-II) zones which was the intent of the ordinance.
- 3.5 Suggested Modification 6.** Suggested Modification 6 would revise Section 35-92.5, Applicability, of Section 35-95, FA - Flood Hazard Overlay District, of Article II to include the appropriate language from County Code Chapter 15A, Floodplain Management, into Article II instead of relying on references to the language within County Code Chapter 15A. This reflects the Coastal Commission's reluctance to include references to other documents that may affect development in the Coastal Zone and have not been certified by the Coastal Commission.
- 3.6 Suggested Modification 7.** Suggested Modification 7 would revise Subsection 12(c) of Section 35-120, Guest House, Artist Studio, or Pool House/Cabaña, of Article II to clarify that term "pool" is limited to a swimming pool which is consistent with the intent of the regulation.
- 3.7 Suggested Modification 8.** Suggested Modification 8 would revise Section 35-144R, Agricultural Employee Dwellings, of Article II to add findings that must be made in order to approve a permit for an agricultural employee dwelling. These findings would implement Coastal Act policies that preserve productive agriculture by requiring that prime soils be avoided and that site alterations required to develop the dwelling are minimized.
- 3.8 Suggested Modifications 9 and 10.** Suggested Modifications 9 and 10 would correct code section citations.
- 3.9 Suggested Modifications 11 and 12.** Section 35-179C, Use Determinations, was added to Article II by Ordinance No. 4964 to provide a procedure for evaluating land uses that are not specifically enumerated as a permitted use in a particular zone but may be allowed if they are found to be similar in character to uses that are already enumerated as permitted uses. Because Section 35-179C, as approved by Ordinance No. 4964, relied on the language of proposed Section 35-51A, Allowable Development and Planning Permit Requirements, to indicate those zones where use determinations are allowed, and because Section 35-51A is proposed for deletion pursuant to Suggested Modification 2, Suggested Modification 11 is necessary in order to identify those zones where additional permitted uses may be allowed through a use determination process. Suggested Modification 11 also includes a cross-reference to the prohibition within Article X, Medical Marijuana Regulations, of the County Code, on the use of the use determination process to allow medical marijuana dispensaries that was included in proposed Section 35-51A. Suggested Modification 12 adds language to each of the zones where use determinations are allowed to provide a cross-reference to the use determination procedures in Section 35-179C.

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 2017 - 2018. There are no facilities impacts at this time. Any future facilities impacts would be addressed during the review of individual projects that may result from this ordinance amendment.

Special Instructions:

1. Clerk of the Board will transmit to the Planning and Development Department (attention Noel Langle) a minute order of the hearing, and a signed resolution (Attachment 2).
2. Planning and Development Department staff will transmit the Resolution to the Coastal Commission and other interested parties.

Attachments:

1. May 17, 2017 Coastal Commission Certification Letter, Santa Barbara County Local Coastal Program Amendment Case No. LCP-4-STB-16-0038-2 (2016 General Package Ordinance Amendment).
2. Board of Supervisors Resolution to accept the Coastal Commission's certification of the Local Coastal Program amendment with modifications.

Authored by:

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