

SANTA BARBARA COUNTY PLANNING COMMISSION

Staff Report for

Senate Bill 9, Telecom, and Minor Ordinance Amendments

Hearing Date: December 4, 2024

Deputy Director: Alex Tuttle

Staff Report Date: November 26, 2024

Division: Long Range Planning

Case Nos.: 24ORD-00015, -00016, -00018, -00019, and -00025

Staff Contact: Corina Venegas-Martin

Staff Contact Phone #: 805-884-6836

Environmental Document: California Environmental Quality Act (CEQA) Exempt

LUDC: Sections 15061(b)(3), 15268, 15282(h), and Government Code (GC) Sections 65852.21(j) and 66411.7(n)

Article II: Sections 15061(b)(3), 15265, 15268, 15282(h), and GC Sections 65852.21(j) and 66411.7(n)

1.0 REQUEST

Hearing on the request of the County of Santa Barbara Planning and Development Department (P&D) for the County Planning Commission (CPC) to consider the following:

1. Adopt an ordinance package (Case Nos. 24ORD-00016 and 24ORD-00019) to amend the Santa Barbara County Land Use and Development Code (LUDC), of Chapter 35, Zoning, of the County Code, as set forth in Attachments C-1 and D-1.
2. Determine that the ordinances (Case Nos. 24ORD-00016 and 24ORD-00019) are exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15268 and 15282(h) of the State Guidelines for the Implementation of CEQA, and Government Code (GC) Sections 65852.21(j) and 66411.7(n).
3. Adopt an ordinance package (Case Nos. 24ORD-00015, 24ORD-00018, and 24ORD-00025) to amend the Santa Barbara County Coastal Zoning Ordinance, Article II, of Chapter 35, Zoning, of the County Code, as set forth in Attachments E-1, F-1, and G-1.
4. Determine that the ordinances (Case Nos. 24ORD-00015, 24ORD-00018, and 24ORD-00025) are exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15265, 15268 and 15282(h) of the State Guidelines for the Implementation of CEQA, and GC Sections 65852.21(j) and 66411.7(n).

The proposed Article II and LUDC amendments include the following: (1) add provisions and development standards in accordance with Senate Bill (SB) 9 regulations (GC Sections 65852.21 and 66411.7); (2) revise existing development standards and permit procedures for Commercial Telecommunication Facilities; and (3) process other minor ordinance amendments to update

existing text provisions, including updating allowed uses in the Limited Commercial Zone (C-1) zone district in Article II and General Industry (M-2) zone district in the LUDC, and implementing clarifications and necessary revisions to the existing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Ordinance to align with changes to State law.

2.0 RECOMMENDATION AND PROCEDURES

2.1 Case Nos. 24ORD-00016 and 24ORD-00019. Follow the procedures outlined below and recommend that the Board approve the LUDC amendments (Case Nos. 24ORD-00016 and 24ORD-00019) based on the ability to make the required findings. The CPC's motion should include the following:

1. Make the required findings for approval (Attachment A), including CEQA findings, and recommend that the Board make the findings for approval of the proposed amendments (Attachment C-1 and D-1);
2. Recommend that the Board determine that ordinance Case Nos. 24ORD-00016 and 24ORD-00019 are exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15268 and 15282(h) of the State Guidelines for the Implementation of CEQA and GC Sections 65852.21(j) and 66411.7(n) (Attachment B); and
3. Adopt the resolutions (Attachment C and D) recommending that the Board adopt ordinances to amend the LUDC (Case Nos. 24ORD-00016 and 24ORD-00019), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C-1 and D-1).

2.2 Case Nos. 24ORD-00015, 24ORD-00018, and 24ORD-00025. Follow the procedures outlined below and recommend that the Board approve the Article II amendments (Case Nos. 24ORD-00015, -00018, and -00025) based on the ability to make the required findings. The CPC's motion should include the following:

1. Make the required findings for approval (Attachment A), including CEQA findings, and recommend that the Board make the findings for approval of the proposed amendments (Attachment E-1, F-1, and G-1);
2. Recommend that the Board determine that ordinance Case Nos. 24ORD-00015, -00018, and -00025 are exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15265, 15268 and 15282(h) of the State Guidelines for the Implementation of CEQA and GC Sections 65852.21(j) and 66411.7(n) (Attachment B); and
3. Adopt the resolutions (Attachment E, F, and G) recommending that the Board adopt ordinances to amend Article II (Case No. 24ORD-00015, -00018, and -00025), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment E-1, F-1, and G-1).

Please refer the matter to staff if the CPC takes other than the recommended actions for the development of appropriate materials.

3.0 JURISDICTION

- 3.1 Case Nos. 24ORD-00016 and 24ORD-00019.** The CPC is considering these amendments based on Sections 65854 to 65857, inclusive, of the California Government Code and Chapter 35.104 of the LUDC, which require that the CPC, as the designated planning agency for the unincorporated area of the County located outside of the Montecito Community Plan area, review and consider proposed amendments to the LUDC, and provide a recommendation to the Board.
- 3.2 Case Nos. 24ORD-00015, 24ORD-00018 and 24ORD-00025.** The CPC is considering the proposed Article II amendment pursuant to Article II Section 35-180.5. Article II requires that the CPC, as the designated planning agency for the unincorporated area of the county located outside of the Montecito Community Plan Area, review and consider proposed amendments to Article II affecting the Coastal Zone, including the Montecito Community Plan Area, and provide recommendations to the Board.

4.0 ISSUE SUMMARY

Senate Bill 9

Senate Bill 9 (SB 9), the Housing Opportunity and More Efficiency (HOME) Act, codified as GC Sections 65852.21 and 66411.7, became effective on January 1, 2022, and aims to increase housing supply across the State through streamlined measures that expand infill development opportunities by requiring local agencies to ministerially permit urban lot splits or two-unit development on a single-family residential zone if certain criteria are met. As a result, the HOME Act expands a homeowner's ability to build a duplex or split their current residential lot, allowing for a maximum of four residential units inclusive of ADU and JADUs on a single-family parcel. On September 19, 2024, Governor Newsom approved SB 450 to update the HOME Act with clarifications and additional regulations for the implementation of SB 9 that go into effect on January 1, 2025. The proposed ordinance is consistent with these recent changes.

To comply with the legislation, staff prepared an ordinance (Attachments C-1 and E-1) for the inland and coastal areas to conform to these laws, and prepared proposed objective design and development standards establish uniform standards that will facilitate the development of new housing under SB 9 while ensuring neighborhood compatibility and minimizing impacts to neighboring properties. The proposed objective design and development standards were drafted (in part) on recommendations from subject matter experts through a series of meetings with the County's Boards of Architectural Review. The proposed objective standards include the following:

- Maximum floor area based on lot size
- Height limits and setbacks
- Building design (building materials, paint colors, roof articulation, privacy, etc.)
- Site standards (open space, landscaping, tree protection, etc.)

Section 5.1 below, discusses these and other SB 9 standards in more detail.

Telecom

On September 14, 2021, the Board directed P&D to complete an ordinance amendment package that included amendments to align the Wireless Communication Facilities ordinance with updated federal requirements and to develop objective design standards for small wireless telecommunication facilities. Due to other prioritized ordinance amendment work, this project was added to the annual work program for FY 23/24, and did not commence until 2023.

Pursuant to the Board’s direction, staff prepared amendments that revise the permitting requirements and design standards for small wireless telecommunication facilities in order to comply with federal law and enable the County to meet federal shot-clock requirements, and other minor changes to clarify and streamline the permit process.

Section 5.2 below, discuss these proposed changes and design standards in more detail.

Minor Ordinance Amendments

Finally, the ordinances include minor amendments in the LUDC and Article II regarding permitted uses in the M-2 and C-1 zones, respectively, and updates to the ADU and JADU Ordinance adopted by the Board in 2023 and certified by the California Coastal Commission in 2024 to ensure that the regulations keep pace with recent changes in State law that will become effective on January 1, 2025.

5.0 PROJECT INFORMATION

5.1 Senate Bill 9

Over the past several years, the State legislature has recognized the importance of increasing housing production and has continuously adopted legislation, such as the HOME Act, to reduce barriers and streamline permit processing for residential units. SB 9, the HOME Act, was signed by Governor Newsom on September 16, 2021, and became effective on January 1, 2022. This bill permits a proposed “urban lot split” to subdivide a residential lot into two lots, or housing development containing up to two principal dwelling units on a legal lot in a qualifying single-

family residential zone. State law requires the legal parcel to be located within an urbanized area or urban cluster as designated by the U.S. Census. Qualifying single-family zones for SB 9 projects include: for the inland the Rural Ranchette (RR), Single Family Residential (R-1/E-1), One-Family Exclusive Residential (EX-1), and Small Lot Planned Development (SLP). Within the Coastal zone, Rural Residential (RR), Single-Family Residential (R-1/E-1), and One-Family Exclusive Residential (EX-1). If the proposed housing development meets certain requirements, State law requires that the project be considered ministerially, without discretionary review or hearing, including design review. The applicable permits would be a Zoning Clearance in the inland area and a staff-level CDP in the coastal zone.

SB 9 authorizes local agencies to deny a project if the Building Official finds by preponderance of the evidence that the project would have a specific adverse impact on public health and safety that cannot be satisfactorily mitigated to avoid the impact. GC Sections 65852.21 and 66411.7 specify requirements for a proposed SB 9 project to be considered for ministerial approval, which include, among others:

- Located on a single-family residential zoned lot within an urbanized area or urban cluster (see Figure 1 below);
- Would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts affordable rent for very low, low, and moderate incomes;
- Would not require demolition or alteration of housing that has been occupied by a tenant in the last three years; and
- Parcels must avoid certain location requirements to be eligible (High Fire Hazard Areas, floodway or Flood Hazard Overlay, prime farmland, historic district, etc.) or incorporate offsetting improvements, including satisfying requirements specified in subparagraphs (B) to (K) of GC Section 65913.4(a)(6).

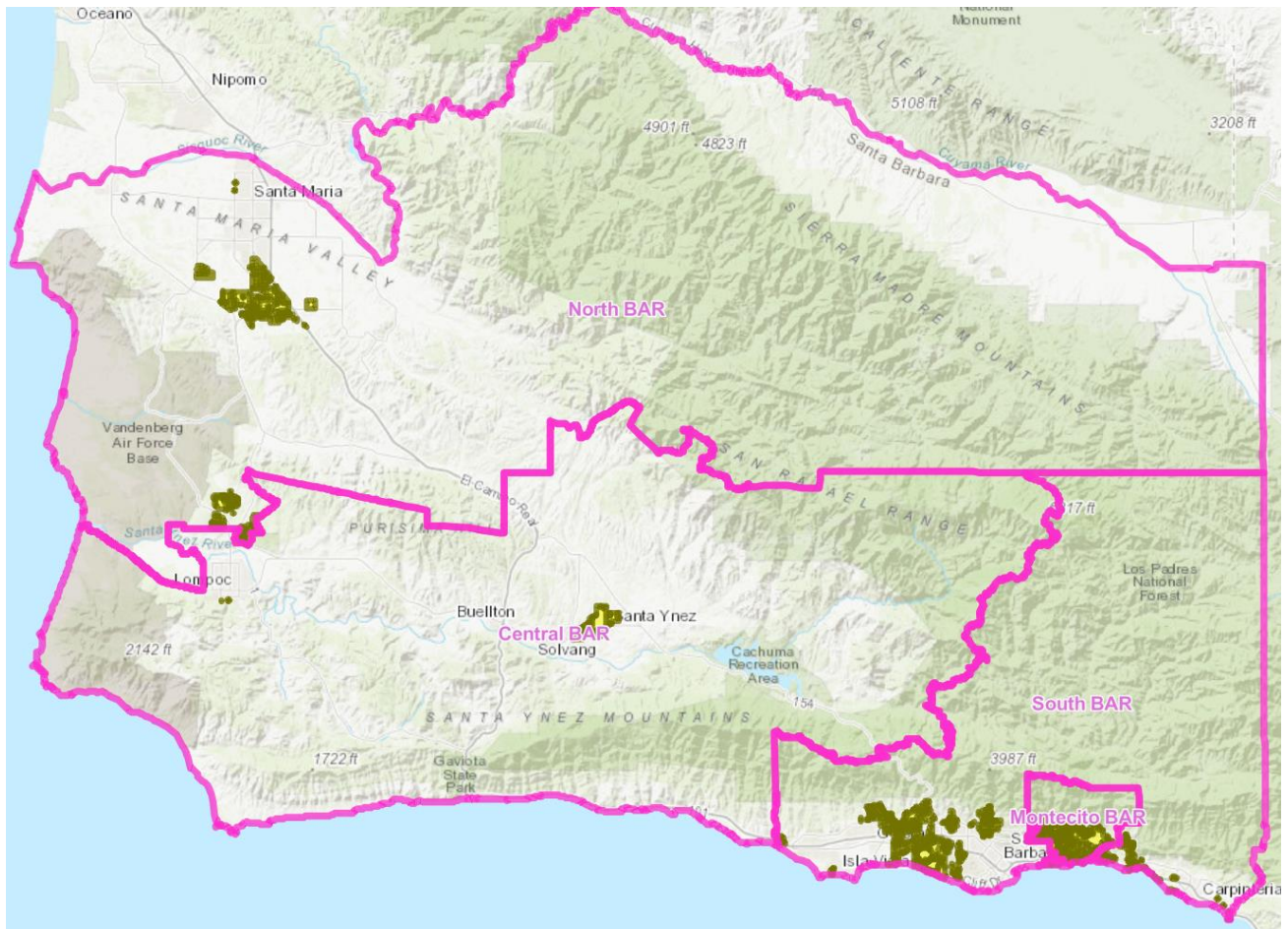
Key development standards specified in GC Sections 65852.21 and 66411.7 include:

- Minimum four-foot rear and side yard setbacks. Front yard setbacks shall be the same as required by the underlying zone;
- One parking space per existing and new unit unless the project is within a half mile of a High-Quality Transit Corridor or Major Transit Stop or car share vehicle drop off or pick up location;
- Residential units connected to an onsite wastewater treatment system would require a percolation test completed in within the last 5 years, or a recertified test within the last 10 years;
- Maximum number of lots allowed with an urban lot split is two;

- No resulting parcel may be smaller than 40 percent of the lot area of the original parcel proposed for subdivision. Furthermore, both new lots shall be at least 1,200 square feet; and
- Maximum of two dwellings (including ADUs/JADUs) are permitted on a lot created through an urban lot split.

Similar to ADU and JADU legislation, SB 9 contains directive language that allows a local agency to impose objective zoning, design, and subdivision standards unless those standards would have the effect of physically precluding the constructions of two principal dwelling units on either resulting parcel through an urban lot split or physically precluding either of the two units from being at least 800 square feet in floor area with four-foot side and rear setbacks.

Figure 1. Single-family residential zoned lots within an urbanized area or urban cluster as designated by the U.S. Census Bureau are shown below in yellow. These are the residential parcels that may be eligible for a SB 9 project.



5.1.1 Proposed Objective Standards

Similar to recent state laws governing multi-family housing projects, since eligible SB 9 projects are only subject to objective standards and ministerial review, they would bypass the typical design review, decision-maker hearing processes, and no public hearing is required. In developing objective standards for SB 9 projects, staff reviewed the multi-family objective design standards recently adopted countywide and carried over those standards that would be applicable to single family development. Additionally, staff reviewed other jurisdictions’ regulations for examples. Finally, staff coordinated with each County Board of Architectural Review to receive feedback and input for the development of these standards. The minutes from the Board of Architectural Review meetings are included as Attachment I to this Staff Report.

Table 1 below summarizes the proposed objective standards for up to two principal dwelling units in accordance with SB 9 (GC Section 65852.21). The complete text of the proposed ordinance and design standards are included in Attachment C-1 (LUDC) and E-1 (Article II).

Table 1 – Proposed Development Standards

Development Standard	Proposed Standard													
Floor Area/Unit Size	Maximum floor area of unit based on lot size: <table border="1" data-bbox="607 1146 1263 1388"> <thead> <tr> <th data-bbox="607 1146 948 1178">Lot Area (Net)</th> <th data-bbox="954 1146 1263 1178">Maximum Unit Size</th> </tr> </thead> <tbody> <tr> <td data-bbox="607 1186 948 1218">up to 4,000 square feet</td> <td data-bbox="954 1186 1263 1218">800 gross square feet</td> </tr> <tr> <td data-bbox="607 1226 948 1257">4,001– 6,999 square feet</td> <td data-bbox="954 1226 1263 1257">1,200 gross square feet</td> </tr> <tr> <td data-bbox="607 1266 948 1297">7,000 – 9,999 square feet</td> <td data-bbox="954 1266 1263 1297">1,400 gross square feet</td> </tr> <tr> <td data-bbox="607 1306 948 1337">10,000 – 19,999 square feet</td> <td data-bbox="954 1306 1263 1337">1,600 gross square feet</td> </tr> <tr> <td data-bbox="607 1346 948 1377">20,000 square feet or more</td> <td data-bbox="954 1346 1263 1377">2,000 gross square feet</td> </tr> </tbody> </table>		Lot Area (Net)	Maximum Unit Size	up to 4,000 square feet	800 gross square feet	4,001– 6,999 square feet	1,200 gross square feet	7,000 – 9,999 square feet	1,400 gross square feet	10,000 – 19,999 square feet	1,600 gross square feet	20,000 square feet or more	2,000 gross square feet
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10,000 – 19,999 square feet	1,600 gross square feet													
20,000 square feet or more	2,000 gross square feet													
Setbacks	Standard setbacks; side and rear setbacks may be reduced to four feet for single story units up to 16 feet in height.													
Height Limit	New <u>attached</u> : height of existing primary dwelling unit on parcel or 25 feet, whichever is greater. New <u>detached</u> : 25 feet and two stories.													
Building Design	New construction, additions, and conversions involving exterior alterations would be subject to the proposed design standards: Appearance and style: If a primary dwelling unit exists on the parcel, new attached principal dwelling unit shall be designed and constructed to match the architectural style, colors, exterior building materials, and finishes													

Development Standard	Proposed Standard
	<p>(including siding, windows, doors, roofing, light fixtures, hardware and railings).</p> <p>Other design standards include:</p> <ul style="list-style-type: none"> • Building articulation • Wall materials and building colors • Roof articulation • Privacy standards
Site Standards	<p>Open space: At least 250 square feet of open space shall be provided for units with two bedrooms or less. Excess of two bedrooms increases by 50 square feet per bedroom.</p> <p>Landscaping: At least 20% of the lot area shall include a mixture of trees, groundcover, and shrubs.</p>
Parking	<p>One off-street parking space, which may be covered or uncovered, is required per unit unless the parcel is within one-half mile of a high-quality transit corridor or one block of a car share vehicle.</p>
Affordability	<p>Requires one of the units in a two-unit development to be affordable to lower or moderate-income residents.</p>

5.2 Telecom

Under the Federal Communication Commission’s (FCC) 2018 “Small Cell Order”, local jurisdictions may exercise local oversight of issues relating to aesthetics, undergrounding and minimum spacing requirements of small wireless facilities, provided those requirements are “reasonable in that they are technically feasible and no more burdensome than those applied to other types of infrastructure deployment.” Further, the standards cannot be so onerous that they have the effect of a prohibition of service. Pursuant to the Board’s direction, staff prepared amendments that contain design standards to be applied to Tier 1 improvement projects and Tier 2, small wireless facility projects. These objective standards would take the place of design review for these small wireless facility projects. As such, staff presented the proposed objective design standards for input during the same Board Architectural Review meetings that occurred in June 2024 through August 2024. Very few comments were received and the BARs were largely supportive of the proposal.

The proposed objective design standards prioritize collocation on existing facilities and mounting antennas on non-decorative streetlights, traffic lights, non-pole concealment structures, and other similar structures. Further, the proposed standards encourage compatibility with the

surrounding uses by requiring the antennas and accessory equipment to be stealth and concealed to minimize visual intrusion. The complete text of the ordinance amendments is included in Attachment D-1 (LUDC), and Attachment F-1 (Article II). Deleted text is shown in strikethrough and new text is shown underlined.

Additionally, the proposed amendments revise the permitting standards for Tier 1 (c), Hub Site projects and the Tier 2 small wireless facility projects from either a Land Use Permit or Development plan in the inland area to a Zoning Clearance (ZC) Permit, and from a Development Plan in the coastal zone to a Coastal Development Permit (CDP). The purpose of this change in permit levels is to better align our permit process with the very limited discretion the County has with respect to these facilities, and the short period of time in which action on these projects must be taken pursuant to federal shot clock requirements.

5.3 Minor Ordinance Amendments

The proposed ordinances also include minor amendments to correct and clarify the LUDC and Article II for the CPC's consideration and recommendation to the Board.

In September 2024, Governor Newsom signed three ADU bills (Assembly Bill (AB) 2533, SB 1077, and SB 1211), that all take effect on January 1, 2025. AB 2533 and SB 1211 contain new requirements that apply to the County's existing ADU ordinances. The following amendments are clarifications and corrections to existing provisions as well as changes to comply with State ADU law:

- Amendments that correct and clarify existing development standards (i.e., clarify separate exterior access, JADU parking requirements, maximum unit size for certain detached ADUs, and add the Resource Management Zone to the list of allowable zones for certain types of ADUs); and
- An amendment that increases the allowed quantity of detached ADUs on lots with an existing multifamily dwelling as amended under GC 66323(a)(4)(A)(ii);

Finally, the proposed minor amendments include a change to Section 35-77A, of Article II, to change the required permit for produce and flower stands from a Minor Conditional Use Permit (MCUP) to a Coastal Development Permit (CDP) under the C-1 zone, and to add certain requirements for outdoor areas devoted to retail use that are accessory to retail operations. Currently, these outdoor components are permitted in the inland area, so this change will bring the coastal regulations in closer alignment with the inland regulations for the C-1 zone and facilitate the continuation of various commercial enterprises occurring on properties with this zoning designation.

In the LUDC, land use table that lists allowable/permitted uses in the M-2 zone district (Table 2-19) is revised to include *Truck, trailer, construction, farm, and heavy equipment sales/rental uses* with a MCUP. That use is currently allowed in Retail Commercial (C-2) zone with a MCUP and in the General Commercial (C-3) zone with a Land Use Permit.

The complete text of the minor ordinance amendments are included in Attachment C-1 (LUDC) and Attachment G-1 (Article II). Deleted text is shown in strikethrough and new text is shown underlined.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

- 6.1.1 **Case Nos. 24ORD-00016 and -00019.** The proposed amendments to the LUDC are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3), 15268 and 15282(h) of the State Guidelines for Implementation of CEQA. CEQA Section 15268 provides a statutory exemption for cities or counties to adopt ordinances to implement GC Sections 65852.21 and 66411.7 (SB 9). Consistent with Section 15061(b)(3), there is no possibility that the proposed minor ordinance amendments will have a significant effect on the environment. Finally, CEQA Guidelines Section 15282(h) provides a statutory exemption for cities or counties to adopt ADU ordinances in accordance with Public Resources Code Section 21080.17, which states that CEQA "... does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code." As explained further in Attachment B, no significant environmental impacts would occur as a result of these ordinance amendments.
- 6.1.2 **Case Nos. 24ORD-00015, -00018 and -00025.** The proposed amendments to the CZO are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3), 15265, 15268 and 15282(h) of the State Guidelines for Implementation of CEQA. State CEQA Guidelines Section 15268 provides a statutory exemption for cities or counties to adopt ordinances to implement GC Sections 65852.21 and 66411.7 (SB 9). State CEQA Guidelines Section 15265 statutorily exempts local government activities involving the preparation and adoption of local coastal program amendments from environmental review. State CEQA Guidelines Section 15282(h) provides a statutory exemption for cities or counties to adopt ADU ordinances in accordance with Public Resources Code Section 21080.17, which states that CEQA "... does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code." Finally, 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 B, no significant environmental impacts would occur as a result of these ordinance amendments.

Please see the Notice of Exemption (Attachment B) for additional information.

6.2 Policy and Ordinance Consistency

As discussed in the Findings for Approval (Attachment A), 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, and 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.

In addition, the proposed SB 9 ordinance amendments are consistent with and implement Program 11 (SB 9 Implementation) of the *2023-2031 Housing Element Update* (Housing Element) and update the zoning ordinances to be consistent with State SB 9 housing law. The current Housing Element contains 25 programs to carry out the County's housing goals and policies. The Board adopted the Housing Element after making a finding that it was in conformity with the other elements of the Comprehensive Plan. Program 11 directs the County to develop an ordinance that implements SB 9 by January 2025, and explore adding an affordability requirement. The proposed amendments implement Program 11 by developing an ordinance that will streamline and promote infill development for housing units within the County.

The proposed ADU ordinance amendments are consistent with Program 10 (Accessory Dwelling Units) of the Housing Element, which directs the County to amend its zoning ordinances to comply with State ADU law. The proposed ADU amendments implement Program 10 by facilitating production of ADUs and JADUs which are an important resource for providing lower- and moderate income housing in the unincorporated area of the County.

Further, no development is approved as part of these ordinance amendments and in order for a future development permit or other land use entitlement to be approved based on the proposed Telecom ordinance amendments, permit change for produce and flower stands from a MCUP to a CDP under the C-1 zone, and revise the allowable/permitted use land use table (Table 2-19) to include *Truck, trailer, construction, farm, and heavy equipment sales/rental uses* with a MCUP in the M-2 zone district, the decision-maker still must determine that the project is consistent with the policies and development standards of the Comprehensive Plan, including the Montecito Community Plan, and the Coastal Land Use Plan, if applicable. Therefore, these amendments may be found consistent with the adopted Comprehensive Plan, including the various Community Plans and the Coastal Land Use Plan.

7.0 APPEALS PROCEDURE

Ordinance amendments recommended for approval or denial are legislative acts that are automatically forwarded to the Board for final action. Therefore, the ordinance amendments are

not subject to appeal.

ATTACHMENTS

- A. Findings for Approval
- B. CEQA Notice of Exemption
- C. LUDC Resolution and Amendment (Case No. 24ORD-00016)
 - C-1. LUDC Amendments with Changes Shown
- D. LUDC Resolution and Amendment (Case No. 24ORD-00019)
 - D-1. LUDC Amendments with Changes Shown
- E. Article II Resolution and Amendment (Case No. 24ORD-00015)
 - E-1. Article II Amendments with Changes Shown
- F. Article II Resolution and Amendment (Case No. 24ORD-00018)
 - F-1. Article II Amendments with Changes Shown
- G. Article II Resolution and Amendment (Case No. 24ORD-00025)
 - G-1. Article II Amendments with Changes Shown
- H. **DRAFT** Chapter 21. Land Division, Article I. Subdivisions Ordinance Amendments (For Reference)
- I. Minutes for the Boards of Architectural Review Meetings