



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  
**Department No.:** 053  
**For Agenda Of:** November 13, 2018  
**Placement:** Departmental  
**Estimated Time:** 90 minutes  
**Continued Item:** Yes  
**If Yes, date from:** October 9, 2018  
**Vote Required:** Majority

---

**TO:** Board of Supervisors

**FROM:** Department Directors: Dianne Black, Director, Planning and Development  
(805) 568-2086

Contact Info: Dan Klemann, Deputy Director, Long Range Planning Division  
(805) 568-2072

**SUBJECT:** Agricultural Employee Dwelling Ordinance Amendments

---

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:**

As to form: N/A

**Recommended Actions:**

Staff recommends that the Board of Supervisors (Board) consider the adoption of amendments to the County Land Use and Development Code (LUDC) and Article II, the Coastal Zoning Ordinance (Article II), to streamline the permit process for agricultural employee dwellings (AEDs) in the Agriculture I (AG-I) and Agriculture II (AG-II) zones in the unincorporated areas of Santa Barbara County.

On November 13, 2018, staff recommends that the Board take the following actions:

- a) Case No. 18ORD-00000-00002 (LUDC Amendment):
  - i) Make the findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1);
  - ii) Determine that the Negative Declaration (14NGD-00000-00014) adopted for the 2015-2023 Housing Element Update (Housing Element) fulfills the environmental review requirements for this project and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162 (Attachment 2); and
  - iii) Adopt an ordinance (Case No. 18ORD-00000-00002) amending Section 35-1, the LUDC, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 3).
- b) Case No. 18ORD-00000-00003 (Article II Amendment):
  - i) Make the findings for approval, including CEQA findings (Attachment 1);

- ii) Determine that the Negative Declaration (14NGD-00000-00014) adopted for the Housing Element fulfills the environmental review requirements for this project and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162 (Attachment 2); and
- iii) Adopt an ordinance (Case No. 18ORD-00000-00003) amending Article II of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment 4).

**Summary Text:**

On October 9, 2018, the Board held a public hearing to consider the adoption of the proposed AED ordinance amendments and directed staff to revise the proposed LUDC and Article II amendments as follows:

1. Eliminate the employment/location requirements for all AEDs in the AG-I and AG-II zones;
2. Clarify that AEDs must be at least 150 square feet in size;
3. Remove the requirements for the submittal of proof of employment documentation upon changes in occupancy for AEDs in the AG-II zone within the Inland Area; and
4. Consider revising the number of employees allowed to occupy AEDs at each permit level, based upon the number of workers requested by employers in the majority of H-2A applications.

These revisions are discussed in the Background section below and are reflected in Attachments 1, 3, and 4.

**Background:**

The proposed AED ordinance amendments implement Housing Element Programs 1.4 and 2.4, which direct the County to encourage the development of unit types that are affordable by design and increase opportunities for and streamline the permit process for AEDs, respectively. The intent of this project was to downshift the AED permit requirements in a manner that could be easily implemented within the scope of the environmental review completed for the Housing Element.

On October 9, 2018, the Board considered the proposed AED ordinance amendments and recommended several revisions, as discussed below.

**Employment/Location Requirements**

Currently, the LUDC and Article II require the employee occupants of all AEDs to be employed full-time in agriculture. Depending on the zone and permit type, this employment can occur either on-site or off-site from the farm or ranch upon which the AED is located. Pursuant to the Board's direction on October 9, 2018, these requirements for all AEDs in both the AG-I and AG-II zones in the Inland Area and Coastal Zone have been removed from the proposed ordinance amendments (Attachments 3 and 4). However, regardless of the revisions to the proposed amendments, AEDs proposed on Williamson Act-contracted lands would still require review by the County Agricultural Preserve Advisory Committee for a determination of need, pursuant to Uniform Rule 1-4.3 of the *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones*.

**Size Requirements**

During the October 9, 2018, hearing, the Board expressed concerns regarding the minimum size of AEDs and directed that the proposed amendments clarify all AEDs must be a minimum of 150 square feet in size. The Board also asked for clarification as to whether the County's Building and Safety Division (Building and Safety) has the regulatory authority to inspect trailers used as AEDs following initial installation and inspection.

The proposed amendments allow mobilehomes, manufactured homes, and park trailers complying with the California Code of Regulations, Title 25, Division 1, Housing and Community Development (Title 25), to be used as AEDs. Building and Safety acts as the local enforcement agency for the State in overseeing the installation and maintenance of certain dwellings and trailers under Title 25. However, Building and Safety’s jurisdiction over mobilehomes and manufactured homes applies only to certain additions and alterations (e.g., the foundation, utility connections, and accessory structures), not the units themselves, since such units are constructed to State and/or Federal standards and inspected prior to sale. Additionally, Building and Safety does not typically have jurisdiction over park trailers because they are recreational vehicles subject to the California Vehicle Code. Thus, Building and Safety’s regulatory authority over mobilehomes, manufactured homes, and park trailers used as AEDs is limited to units that comply with Title 25. Building and Safety would not re-inspect a compliant mobilehome, manufactured home, or park trailer after installation unless (1) the applicant proposes to move the dwelling to a new location, or (2) Code Enforcement staff is required to conduct an inspection in response to a zoning or building code violation (e.g., unpermitted use of a unit).

Building and Safety does have jurisdiction over AEDs that are *not* mobilehomes, manufactured homes, and park trailers (i.e., traditional, “stick-built” construction). These AEDs are regulated under the California Code of Regulations, Title 24, Part 2, the California Building Code (Title 24).

For AEDs regulated under Title 24, dwellings must have one room of not less than 120 square feet of net floor area, and other habitable rooms must have at least 70 square feet of net floor area (California Building Code Section 1208.3). Separately, California Building Code Section 1208.4 allows for efficiency dwelling units containing one habitable room with kitchen facilities and a separate closet and bathroom. These units must have a living room of at least 220 square feet and provide an additional 100 square feet of floor area for each occupant in excess of two. As for AEDs regulated under Title 24, park trailers must “... contain 400 square feet or less of gross floor area ...” [Health and Safety Code Section 18009.3(a)], and mobilehomes and manufactured homes must be at least 320 square feet [Health and Safety Code Section 18007(a)].

Accordingly, the proposed amendments have been revised to clarify that AEDs must comply with the size requirements set forth in the Health and Safety Code and the current, adopted edition of the California Building Code, as applicable (Attachments 3 and 4).

*Proof of Employment Submittal Requirements*

Currently, the LUDC and Article II require applicants to submit proof of employment in agriculture for AED employees (1) every five years beginning from the issuance of the AED permit, or (2) if the occupancy of the AED changes. If the identity of the employee is not known at the time the AED permit is issued (e.g., the employee has not yet been hired), then the applicant must provide documentation of proof of employment within 30 days of the employee moving into the AED (LUDC Section 35.42.030.D.2). These requirements are intended to verify that AEDs continue to be used as housing for agricultural employees.

However, the Board expressed concerns about using the identity of employees to verify the use of the AED. After hearing public comments, the Board agreed that the potentially high rate of employee turnover, particularly on cultivated AG-II lots, would make it difficult for applicants to submit proof of employment documentation upon every change in AED occupancy. Pursuant to the direction of the Board, the proposed LUDC amendment (Attachment 3) removes the requirements regarding the submittal of proof of employment documentation upon a change in occupancy for AEDs in the AG-II zone. The Board was not clear as to whether similar changes should be made for the AG-II zones within the Coastal

Zone. However, to be consistent countywide, these requirements have also been removed from the proposed Article II amendments (Attachment 4).

Number of Employees

On October 9, 2018, the Board asked staff to consider revising the thresholds for the number of employees allowed to occupy AEDs at each permit level. The Board discussed the possibility of revising the thresholds based upon the number of workers requested by employers in the majority of H-2A applications (ETA Form 790).

Accordingly, staff reviewed the number of workers requested in H-2A applications posted between January 1, 2016, and October 16, 2018 (Attachment 5). This data captured posted H-2A applications with worksites within 30 miles of zip code 93454 (Santa Maria). This data included worksites in the unincorporated county, but may also include worksites located on the limited agricultural land within incorporated city areas. Out of the 183 H-2A applications posted between 2016 and 2018, 129 applications included requests for 20 or more workers; 80 applications included requests for 35 or more workers.

Based on this data, staff considered the following options for permit thresholds in the Inland Area and Coastal Zone:

- Increasing the Zoning Clearance (ZC) permit level threshold to 1-9 employees;
- Revising the LUP threshold to allow 15-19 employees and the MCUP threshold to allow 15-19 employees; and
- Decreasing the CUP threshold to 20 or more employees.

Both the PC and Board considered increasing the number of employees at the ZC level to allow up to nine employees. However, increasing the potential AED occupancy at the ZC level may not achieve the goal of reducing the permit requirement for such AEDs, given that the utilities required to serve up to nine employees and their families (i.e., the number of utility connections) would likely require a higher level discretionary permit (i.e., a LUP or MCUP). Therefore, staff recommends retaining the proposed thresholds for the ZC, LUP, and MCUP permit levels as shown in Table 1, below, and reflected in Attachment 3.

However, given the relatively large number of H-2A applications that included requests for 20 or more workers, staff recommends reducing the number of employees allowed to occupy AEDs permitted with a CUP to 20 or more employees as shown in Table 1, below. As an additional benefit, revising the CUP threshold would provide the County with more oversight over AEDs with fewer employees, thus decreasing the likelihood of neighborhood compatibility issues. This recommendation is not currently reflected in the proposed amendments (Attachments 3 and 4); if the Board agrees with this reduced CUP threshold, staff will be prepared to present revised LUDC and Article II amendments and Findings for Approval that reflect this recommendation at the November 13, 2018, Board hearing.

**Table 1**

<b>Recommended LUDC/Article II Permit Requirements</b>				
<b>Zone</b>	<b>1-4 Employees</b>	<b>5-9 Employees</b>	<b>10-19 Employees</b>	<b>20+ Employees</b>
AG-I	ZC/CDP	LUP/CDP	MCUP	CUP
AG-II	ZC/CDP	LUP/CDP	MCUP	CUP

**Environmental Review:**

Staff recommends that the Board of Supervisors determine that the Negative Declaration (14NGD-00000-00014) (Attachment 2) adopted for the Housing Element fulfills the environmental review requirements for this project and no subsequent environmental document shall be prepared pursuant to CEQA Guidelines Section 15162. This section provides (in pertinent part) that the lead agency shall not prepare a subsequent environmental impact report (EIR) for a project when the lead agency or another entity has already adopted a negative declaration or certified an EIR for that project, unless one or more of the following have occurred: (1) substantial changes are proposed which will require major revisions to the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (3) new information of substantial importance which was not known and could not have been known at the time the previous Negative Declaration was adopted has become available.

The proposed AED ordinance amendments do not present any new information or proposed changes that will alter the purpose or intent of the goals, policies, and programs of the Housing Element. Therefore, no new environmental document is required and the proposed amendments do not require subsequent environmental review pursuant to CEQA Guidelines Section 15162. Projects subject to discretionary permits will be required to comply with CEQA, as applicable to the specific project proposed. Please see the CEQA Findings in Attachment 1 for additional details.

**Fiscal Analysis:**

Funding for the AED ordinance amendments is budgeted in the 2018-19 Long Range Planning Work Program as reflected in the Department's approved FY 2018-19 budget. To date, staff has expended approximately 825 hours/\$64,000 on preparing and processing the proposed AED ordinance amendments. There are no facilities impacts.

**Special Instructions:**

The Planning and Development Department will fulfill all noticing requirements.

The Clerk of the Board shall provide a copy of the minute order to the Planning and Development Department, attention: Jessi Steele.

**Authored by:**

Jessi Steele, Planner, Long Range Planning Division, (805) 884-8082

**Attachments:**

1. Findings for Approval (Case Nos. 18ORD-00000-00002 and 18ORD-00000-00003)
2. Negative Declaration (14NGD-00000-00014) for the 2015-2023 Housing Element Update
3. LUDC Amendment (Case No. 18ORD-00000-00002)
4. Article II Amendment (Case No. 18ORD-00000-00003)
5. H-2A Application Data