

SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION
Staff Report for Childcare Facilities and Minor Ordinance Amendments

Hearing Date: October 19, 2022

Staff Report Date: October 11, 2022

Case Nos.: 22ORD-00000-00005 & 22ORD-00000-00006

Environmental Document: California Environmental Quality Act (CEQA) Exempt

MLUDC: CEQA Guidelines Sections 15061(b)(3), 15301(p)

Article II: CEQA Guidelines Sections 15061(b)(3), 15265, and 15301(p)

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1.0 REQUEST

Hearing on the request of the County of Santa Barbara Planning and Development Department (P&D) for the Montecito Planning Commission (MPC) to consider recommending that the County Planning Commission (CPC) and Board of Supervisors (Board):

1. Adopt an ordinance (Case No. 22ORD-00000-00005) to amend the Santa Barbara County Coastal Zoning Ordinance, Article II, of Chapter 35, Zoning, of the County Code, as set forth in Attachment C-2.
2. Determine that ordinance Case No. 22ORD-00000-00005 is exempt from the provisions of CEQA pursuant to Section 15061(b)(3) and 15265 of the State Guidelines for the Implementation of CEQA.
3. Adopt an ordinance (Case No. 22ORD-00000-00006) to amend the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the County Code, as set forth in Attachment D-2.
4. Determine that ordinance Case No. 22ORD-00000-00006 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines for the Implementation of CEQA.

2.0 RECOMMENDATION AND PROCEDURES

2.1. Case No. 22ORD-00000-00005. Follow the procedures outlined below and recommend that the CPC make a recommendation to the Board to approve the Article II amendments (Case No. 22ORD-00000-00005) based on the ability to make the required findings. The MPC's motion should include the following:

1. Make the required findings for approval (Attachment A), including CEQA findings, and recommend that the CPC recommend to the Board to make the required findings for

approval of the proposed amendments (Attachment C-2).

2. Recommend that the CPC recommend to the Board to determine that ordinance Case No. 22ORD-00000-00005 is exempt from the provisions of CEQA pursuant to Section 15061(b)(3) and 15265 of the State Guidelines for the Implementation of CEQA; and
3. Adopt a resolution (Attachment C) recommending that the CPC recommend to the Board to adopt an ordinance to amend Article II (Case No. 22ORD-00000-00005), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C-2).

2.2. Case No. 22ORD-00000-00006. Follow the procedures outlined below and recommend that the Board approve the MLUDC amendments (Case No. 22ORD-00000-00006) based on their consistency with the Comprehensive Plan (including the Montecito Community Plan), and based on the ability to make the required findings (including CEQA findings). The MPC'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 required findings for approval of the amendments (Attachment D-2);
2. Recommend that the Board determine that ordinance Case No. 22ORD-00000-00006 is exempt from the provisions of CEQA pursuant to Section 15061(b)(3) of the State Guidelines for the Implementation of CEQA; and
3. Adopt a resolution (Attachment D) recommending that the Board adopt an ordinance to amend the MLUDC (Case No. 22ORD-00000-00006), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment D-2).

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

3.0 JURISDICTION

3.1 Case No. 22ORD-00000-00005. The Montecito Planning Commission is considering these amendments based on Section 2-25.2 of Chapter 2 of the Santa Barbara County Code, which provides that the Montecito Planning Commission may make recommendations to the County Planning Commission on text amendments to Article II that will affect land use decisions within the Coastal Zone portion of the Montecito Community Plan area.

3.2 Case No. 22ORD-00000-00006. The MPC is considering the amendments based on Sections 65854 to 65857, inclusive, of the California Government Code and Chapter 35.494 of the MLUDC, which require that the Montecito Planning Commission, as the designated planning agency for the unincorporated area of the County located within the Inland Area

portion of the Montecito Community Plan area, review and consider proposed amendments to the MLUDC, and provide a recommendation to the Board.

4.0 PROJECT INFORMATION

On September 14, 2021, the Board directed P&D to prepare zoning ordinance amendments that include provisions and incentives for the development of childcare facilities. The Board requested staff to prioritize the child care amendments by processing them separately from, and prior to, certain other ordinance amendments that the Board has requested.

Pursuant to the Board's direction, staff prepared amendments that will revise the permitting and development standards for Small and Large Family Day Care facilities to align them with State law (Senate Bill 234, Chapter 244, Statutes of 2019; Health and Safety Code § 1596.72 et al). The amendments also include the following changes to the permitting requirements for day care homes and centers that are based (in part) on recommendations from subject matter experts in the day care industry:

- Allow "by right" large family day care homes for children in all dwellings regardless of zone
- Allow smaller day care centers of 50 children or less with a Land Use Permit (LUP) instead of a Conditional Use Permit (CUP)
- Relaxing certain standards for child care centers located in or at public/quasi-public facilities that are used for assembly uses (e.g., schools, churches, conference centers, community centers, or clubhouses)

Finally, the ordinances include (1) a new zoning permit exemption for electric vehicle charging stations, including hydrogen fueling stations, that comply with Government Code Section 65850.7, and (2) minor, disparate amendments to correct and clarify existing regulations, and ensure that the regulations keep pace with current trends, policies, and State law.

4.1 Proposed Amendments

4.1.1 Child Care Amendments

The draft amendments to implement the changes to child care regulations described below are shown in strikethrough-underline text in Attachment C, Exhibit C-1, and Attachment D, Exhibit D-1. The final text of the proposed ordinance amendments are included in Attachment C, Exhibit C-2, and Attachment D, Exhibit D-2.

4.1.1.1 Small and Large Family Day Care Homes

Pursuant to Health and Safety Code Section 1596.78 (Health & Safety §1596.78), the use of a large family day care home must be treated as a residential use of property for purposes of all local ordinances. The ordinance amendments comply with this requirement as they would exempt small and large family day care homes within a residence in all zoning districts. Under the current ordinance, a large family day care home is not classified as a residential use of property, requires approval of an LUP, and is subject to fees that diminish the availability and profitability of operating and providing child care for up to 14 children. The proposed ordinance would revise these current requirements by easing the permit process and increasing the accessibility to locate day care homes in residential surroundings to promote a home setting conducive to healthy and safe development. Additionally, staff revised the current glossary definitions for small and large family day care homes to align with Health & Safety §1596.78 and clarify that the requirements apply to homes serving children, not adults.

Finally, Health and Safety Code Subsection Section 1596.78 permits a small family day care home or large family day care home in a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family day care home or large family day care home is where the family day care provider resides, and includes a dwelling or dwelling unit that is rented, leased, or owned. The recommended zoning ordinance amendments will clarify the types of dwellings in which small and/or large family day care homes are allowed.

4.1.1.2 Day Care Centers as an Accessory Use

A day care center provides supervision, education, personal care, or assistance on a less than 24-hour basis to children under 18 years of age. Currently, the MLUDC requires a CUP for a day care center in residential zones. Day care centers often operate as an accessory use to existing assembly uses (e.g., church or school) due to the feasibility, building layout, parking, and central location of such facilities.

The proposed ordinance amendments may allow day care centers serving up to 50 children on commercially-zoned properties, and residentially-zoned properties with assembly uses, with an LUP in compliance with Section 35.472.110 (Land Use Permits).

Finally, staff recommends removing existing regulations that limit the use of day care centers solely to employees of a business or residents of a dwelling located on the same site as the day care center. This will afford operators of day care centers greater flexibility and options for running day care centers.

4.1.1.3 Day Care Centers in Non-Residential Zones

Currently, a CUP is required to allow a day care center as a principal use in non-residential zones. These non-residential zones include:

- Resource Management (RMZ)
- Neighborhood Commercial (CN)
- Resort Visitor Serving Commercial (CV)
- Recreation (REC)
- Public Utilities (PU)

The process for obtaining a CUP is expensive and time-consuming, presents business risks to operators, and may result in more fees and conditions (i.e., restrictions) that can render projects infeasible. The new LUP requirement for day care centers of up to 50 children is intended to remove these limitations and increase the number of viable locations for day care centers.

4.1.2 Minor Amendments

The ordinances include minor amendments to the MLUDC and Article II that solely affect the Montecito Community Plan Area and are the subject of the MPC’s recommendation to the Board, plus other minor amendments that will affect other areas of the county and are the subject of the CPC’s recommendation to the Board. The following table identifies all of the minor amendments to the zoning ordinances that the Board will consider.

AMENDMENT TOPIC		APPLICABILITY		
		County Land Use and Development Code (LUDC)	MLUDC	ARTICLE II
1	Exempt Electrical Vehicle Charging Stations and Hydrogen-Fueling Stations	√	√	√
2	Correct Accessory Structure Rear Setback Requirement		√	
3	Home Occupation Correction	√		
4	Delete LUDC Section 35.42.180, Historical Parks	√		
5	Amend Automobile Service Station Definition	√		
6	Correct Typo in Mixed-Light Cultivation Definition			√
7	Add Major Vegetation Removal Definition			√
8	Correct Accessory Storage Section Number Reference			√
9	Correct Section Heading List for Section 35-144Q, Reasonable Accommodation			√
10	Revise Subsection Letter in Section 35-144U.C			√

As shown in the table, the ordinances include the following items for the MPC’s consideration and recommendation to the Board:

- Amendments to allow electrical vehicle charging stations and hydrogen-fueling stations as defined in, and that comply with, Government Code Section 65850.07 without a

zoning permit (Section 35.420.040.B.7 et seq, Exemptions from Planning Permit Requirements); and

- An amendment to correct an error in subsection Section 35.442.020.B.4.a(1) of the MLUDC regarding rear setback requirements for certain accessory structures (i.e., delete a self-reference in the subsection).

The complete text of the ordinance amendments are included in Exhibit C-1 of Attachment C (Article II), and Exhibit D-1 of Attachment D (MLUDC). Deleted text is shown in strikethrough and new text is shown underlined in red. The MLUDC and Article II ordinance amendments include certain minor amendments (e.g., correcting typos and renumbering subsections) which do not materially change the existing regulations but will clarify or correct existing requirements.

Staff will present the amendments to the County Planning Commission on November 2, 2022, and the Board on November 29, 2022. Assuming the Board adopts the ordinances, the amendments to the MLUDC will take effect 30 days following Board adoption of the ordinance. Because the amendments to Article II constitute an amendment to the County's certified Local Coastal Program, the amendments will take effect following Coastal Commission certification of the Article II amendments (estimated 15 months following Board adoption of the ordinance).

5.0 PROJECT ANALYSIS

5.1 Environmental Review

5.1.1 Case No. 22ORD-00000-00005. The proposed ordinance amendments to Article II are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3), 15265, and 15201(p) of the State Guidelines for Implementation of the CEQA. Consistent with Section 15061(b)(3), there is no possibility that the ordinance amendments will have a significant effect on the environment. Furthermore, Section 15265, the statutory 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. As explained further in Attachment B, no significant environmental impacts would occur as a result of these ordinance amendments.

5.1.2 Case No. 22ORD-00000-00006. The proposed amendments to the MLUDC are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3) and 15301(p) of the State Guidelines for Implementation of the CEQA. 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.

5.2 Comprehensive Plan Consistency

The proposed ordinance amendments do not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including the Montecito Community Plan, or 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.

Despite being exempt from zoning permits, electronic vehicle charging and hydrogen-fueling stations still would be required to comply with all applicable regulations pertaining to height, setbacks, resource protection, etc., of the zoning ordinances (MLUDC Section 35.420.040.B.7; Article II Section 35-51B.2.b2). Furthermore, for uses and/or development that would require a land use entitlement (e.g., daycare centers requiring an LUP), the decision-maker must find 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), in order to approve the land use entitlement for the proposed use and/or development. As part of this process, a policy consistency analysis will be performed during the review of the application, and projects would not be approved unless they are determined to be consistent with applicable policies and the findings.

The policy consistency analysis table presented below describes how the proposed amendments are consistent with certain, key policies and standards of the Comprehensive Plan and Montecito Community Plan that are relevant to these ordinance amendments.

POLICY / DEVELOPMENT STANDARD	ANALYSIS
Santa Barbara County Comprehensive Plan - Land Use Element	
<p>Regional Fundamental Policy 2: In order for the County to sustain a healthy economy in the urbanized areas and to allow for growth within its resources and within its ability to pay for necessary services, the County shall encourage infill, prevent scattered urban development, and encourage a balance between housing and jobs.</p>	<p>Consistent. The proposed amendments would be consistent with this policy because they would support economic viability within existing facilities and primarily developed, urbanized areas. The proposed amendments would facilitate the installation of electronic vehicle charging stations in urban areas (e.g., shopping centers and other commercial development). Changes to the daycare regulations will allow further development of day care homes and facilities in strategic locations where demand is greatest for daycare (i.e., within homes, churches, and commercial zones in urban areas near employment opportunities). As a result, the proposed amendments would be consistent with this policy.</p>
<p>Land Use Development Policy 4: Prior to issuance of a development permit, the County</p>	<p>Consistent. The proposed ordinance amendments would be consistent with this</p>

<p>shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan. Affordable housing projects proposed pursuant to the Affordable Housing Overlay regulations, special needs housing projects or other affordable housing projects which include at least 50% of the total number of units for affordable housing or 30% of the total number of units affordable at the very low income level shall be presumed to be consistent with this policy if the project has, or is conditioned to obtain all necessary can and will serve letters at the time of final map recordation, or if no map, prior to issuance of land use permits.</p>	<p>policy, but rather will further promote and support the development of safe child care services throughout the community and reduce barriers for operators. The State regulates child day care centers and day care homes for health and safety considerations. Additionally, fire personnel conduct inspections to ensure proposed facilities provide safe conditions prior to operation. Allowing child care to be located in proximity to their users, employment areas, urban areas (e.g., residential zones), and mostly within existing development, will avoid expanding public services (e.g., water and sewer) to serve daycare uses allowed by these ordinances. The proposed regulations are consistent with VMT-reduction goals by affording greater flexibility in permitting day care opportunities near business, in residential zones, and in urban areas.</p> <p>Finally, the provision for electric vehicle generators including hydrogen-fueling stations would not conflict with this policy because they will not create new demand for services and resources (e.g., water, sewer, or increase VMTs). As a result, the proposed amendments would be consistent with this policy.</p>
<p>Coastal Land Use Plan (LCP)</p>	
<p>Development Policy 2-6: Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan. Where an affordable housing project is proposed</p>	<p>Consistent. See the discussion of project consistency with Land Use and Development Policy 4, above. The proposed ordinance amendments would be consistent with this policy, but rather will further promote and support the development of safe child care services throughout the community and reduce barriers for operators. The proposed regulations are consistent with VMT-reduction goals and will offset impacts created by new development or the need for additional public services (e.g., water and sewer) by affording greater flexibility in permitting day care options near businesses, in residential zones, and in urban areas.</p>

<p>pursuant to the Affordable Housing Overlay regulations, special needs housing or other affordable housing projects which include at least 50% of the total number of units for affordable housing or 30% of the total number of units affordable at the very low income level are to be served by entities that require can-and-will-serve letters, such projects shall be presumed to be consistent with the water and sewer service requirements of this policy if the project has, or is conditioned to obtain all necessary can-and-will-serve letters at the time of final map recordation, or if no map, prior to issuance of land use permits. (amended by 93-GP-11)</p>	<p>Finally, the provision for electric vehicle generators including hydrogen-fueling stations would not conflict with this policy because they will not create new demand for services and resources (e.g., water, sewer, or increase VMTs). As a result, the proposed amendments would be consistent with this policy.</p>
<p>Montecito Community Plan (MCP)</p>	
<p>Goal LUED-M-1: Provide for Education and Institutional Uses that are Harmonious and Compatible with the Character and Fabric of the Existing Residential Community.</p>	<p>Consistent: The proposed ordinance would be consistent with this goals and provide additional opportunities and increase the availability for child care across the County and Montecito Community Plan area, consistent with State law (e.g., requirements to regulate day care homes as residential uses). Additionally, day care homes situated in residential zones are often indistinguishable from family occupancy in terms of traffic and noise, and consequently do not result in adverse impacts to the surrounding residential uses. Day care centers will be subject to land use entitlements that will enable decision-makers to apply conditions of approval to ensure that they are compatible in residential zones. Therefore, the ordinance amendments would be consistent with this policy.</p>
<p>Policy LUED-M-1.1: All educational, institutional, and other public & quasi-public uses shall be developed and operated in a manner compatible with the community’s residential character.</p>	

Therefore, these amendments may be found consistent with the Comprehensive Plan, including the Montecito Community Plan and the Coastal Land Use Plan.

5.3 Zoning Ordinance Compliance

The proposed amendments are consistent with the remaining portions of the MLUDC and Article II that would not be revised by these ordinances. In order for electronic vehicle charging stations, including hydrogen-fueling stations, to be exempt from land use entitlements, they would be required to comply with all applicable regulations pertaining to height, setbacks, resource protection, etc. (MLUDC Section 35.420.040.B.7; Article II Section 35-51B.2.b2). For uses and/or development that require a land use entitlement, County decision-makers would need to

determine that the development and/or use are consistent with all applicable requirements of the MLUDC and Article II (as applicable) in order to approve the land use entitlement. Therefore, the proposed amendments are consistent with the remaining portions of the MLUDC and Article II.

6.0 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. Resolution of the County Montecito Planning Commission (Article II)
 - C-1. Article II Amendments with Changes Shown
 - C-2. Article II Amendments for Adoption (Case No. 22ORD-00000-00005)
- D. Resolution of the County Montecito Planning Commission (MLUDC)
 - D-1. MLUDC Amendments with Changes Shown
 - D-2. MLUDC Amendments for Adoption (Case No. 22ORD-00000-00006)