

SANTA BARBARA COUNTY PLANNING COMMISSION

Staff Report for Accessory Dwelling Units (ADUs), Shopping Center (SC) Rezone, and Minor Ordinance Amendments

Hearing Date: October 4, 2023

Staff Report Date: September 26, 2023

Case Nos.: 23ORD-00007, 23ORD-00009,
23RZN-00003

Environmental Document: California
Environmental Quality Act (CEQA) Notice of
Exemption

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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 County Planning Commission (CPC) to consider the following:

1. Adopt an ordinance (Case No. 23ORD-00007) to amend the Santa Barbara County Land Use and Development Code (LUDC), of Chapter 35, Zoning, of the County Code, as set forth in Attachment C.
2. Determine that ordinance (Case No. 23ORD-00007) is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15282(h) of the State Guidelines for the Implementation of CEQA.
3. Adopt an ordinance (Case No. 23ORD-00009) to amend the Santa Barbara County Coastal Zoning Ordinance (CZO), Article II, of Chapter 35, Zoning, of the County Code, as set forth in Attachment D.
4. Determine that ordinance (Case No. 23ORD-00009) is exempt from the provisions of CEQA pursuant to Section 15061(b)(3), 15265, and 15282(h) of the State Guidelines for the Implementation of CEQA.
5. Adopt an ordinance (Case No. 23RZN-00003) amending the County Zoning Map of Section 35-1, the Santa Barbara County LUDC, of Chapter 35, Zoning, by rezoning all Shopping Center (SC) zones to Retail Commercial (C-2).
6. Determine that ordinance (Case No. 23RZN-00003) is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) of the State Guidelines for the Implementation of CEQA.

The proposed CZO and LUDC amendments revise existing and create new development standards and permit procedures to implement recent changes in State legislation regarding ADUs and JADUs; eliminate the SC Zone and rezone these properties to C-2; and process other minor amendments.

2.0 RECOMMENDATION AND PROCEDURES

- 2.1 Case No. 23ORD-00007.** Follow the procedures outlined below and recommend that the Board of Supervisors (Board) approve the LUDC amendments (Case No. 23ORD-00007) based on their consistency with the Comprehensive Plan and Community Plans, and based on the ability to make the required findings (including CEQA 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;
 2. Recommend that the Board determine that ordinance Case No. 23ORD-00007 is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3) and 15282(h) of the State Guidelines for the Implementation of CEQA (Attachment B); and
 3. Adopt a resolution recommending that the Board adopt an ordinance to amend the LUDC (Case No. 23ORD-00007), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C).
- 2.2 Case No. 23ORD-00009.** Follow the procedures outlined below and recommend that the Board approve the CZO amendments (Case No. 23ORD-00009) 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;
 2. Recommend that the Board determine that ordinance Case No. 23ORD-00009 is exempt from the provisions of CEQA pursuant to Sections 15061(b)(3), 15265, and 15282(h) of the State Guidelines for the Implementation of CEQA (Attachment B); and
 3. Adopt a resolution recommending that the Board adopt an ordinance to amend the CZO (Case No. 23ORD-00009), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment D).
- 2.3 Case No. 23RZN-00003.** Follow the procedures outlined below and recommend that the Board approve Case No. 23RZN-00003, 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 Zoning Map amendment (Attachment E);
 2. Recommend that the Board determine that ordinance Case No. 23RZN-00003 is exempt from the provisions of CEQA pursuant to Section 15061(b)(3) of the State Guidelines for the Implementation of CEQA (Attachment B); and
 3. Adopt a resolution recommending that the Board adopt an ordinance to amend the County Zoning Map of Section 35-1 (Case No. 23RZN-00003), of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment E).

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

3.0 JURISDICTION

Government Code Sections 65854 to 65857 and Chapter 35.104 of the LUDC require that the CPC, as

the designated “planning agency” for the unincorporated area of the County located outside of the Inland Area of the Montecito Community Plan Area, review and consider proposed amendments to the LUDC and provide a recommendation to the Board.

Government Code Section 65854 states: “The planning commission shall hold a public hearing on the proposed ... amendment to a zoning ordinance.” Furthermore, Government Code Section 65855 states: “After the hearing, the planning commission shall render its decision in the form of a written recommendation to the legislative body...”

Section 2-25.2(b) of Chapter 2 – Administration of the Santa Barbara County Code, states in part: “... Recommendations regarding proposed amendments to articles I, II, III, V and VII of Chapter 35 of the County Code ... shall remain within the jurisdiction of the County Planning Commission.”

4.0 ISSUE SUMMARY

Over the past several years, the State legislature has recognized the importance of creating ADUs and JADUs to increase housing production and has continuously adopted legislation to reduce barriers and streamline permit processing. On September 28, 2022, Assembly Bill (AB) 2221 and Senate Bill (SB) 897 amended Government Code (GC) Sections 65852.2 and 65852.22 related to the permitting and review of ADU and JADUs. These bills became effective on January 1, 2023, at which time certain provisions of the County’s ADU ordinances for the Inland Area (i.e., Montecito Land Use and Development Code (MLUDC) and LUDC) became inconsistent with State law.

In 2023, the Board directed staff to initiate amendments to the LUDC, MLUDC, and CZO in order to comply with the recent legislation. Accordingly, staff has drafted CZO and LUDC amendments (Attachments C and D, respectively), as well as an MLUDC amendment that staff presented to the Montecito Planning Commission on September 15, 2023. The proposed MLUDC and LUDC amendments contain identical development standards for ADUs and JADUs; the CZO retains some differences to ensure consistency with the California Coastal Act. In addition, the CZO amendments include the uncertified Board adopted 2021 amendments, combined with further updates in accordance with the recent legislation. A strike-through version showing the uncertified amendments from 2021 is included as Attachment D-2.

Consistent with State ADU and JADU law, the proposed amendments include updated development standards applicable to ADUs and JADUs. Additionally, several updates are proposed in order to clarify existing regulations based on learned experience and remove barriers to the construction of ADUs that provide marginal or no clear benefit. Some of the significant changes include the following:

- Increased height allowance for certain ADUs, including the ability for ADUs to be stacked above other accessory structures;
- Clarifying setback requirements, including front setbacks;
- Clarifying how floor area is calculated and providing an allowance for minor architectural features to be added to ADUs without triggering additional permit requirements;
- Eliminating regulations on the location of ADUs relative to the principal dwelling provided all other setback requirements are met; and

- Revising lot requirements to permit the combination of one conversion ADU and one new construction detached ADU on a lot within the Residential and Mixed-Use zones in certain circumstances.

Section 5.2 below, discuss these and other changes in more detail.

In addition to the updated ADU regulations, staff has proposed a zoning update that would eliminate the SC Zone in the ordinance and rezone affected properties from SC to C-2. Finally, staff prepared minor amendments to the LUDC and CZO that include: (1) clarifying that exemptions are not appealable; (2) clarifications to existing development standards related to detached accessory structures; and (3) correcting an error in Table 2-22 of the LUDC, related to Transitional and Supportive housing. Section 5.3, below, discusses these minor amendments in more detail.

5.0 PROJECT INFORMATION

5.1 Background

On October 9, 2019, Governor Newsom approved three bills (AB 68, AB 881, and SB 13, codified in GC Sections 65852.2 and 65852.22) to further streamline the ADU permit process and reduce the development standards for ADUs and JADUs, which became effective on January 1, 2020. To comply, staff prepared zoning ordinance amendments to conform to these laws, which the Board adopted on May 18, 2021. The amendments became effective in the inland areas on June 17, 2021, while the coastal zone amendments remain uncertified by the CCC. On September 22, 2021, County staff sent the CZO amendments to the CCC for review and certification. Upon review, CCC staff submitted a Non-filing letter to County staff on September 29, 2021, requesting additional information and further analysis of the effect of the ordinance amendment on coastal access parking. Given the subsequent changes to state law and the need to revise the ordinance to address the parking issue to preserve coastal access, P&D staff elected to incorporate further updates to the CZO ordinance through the local adoption process before resubmitting to the CCC for review and certification.

While the 2019 legislation significantly streamlined the permit process for ADUs, State legislators were concerned that local jurisdictions' ordinances remained burdensome and restricted the development of ADUs. As a result, AB 2221 and SB 897 (codified in GC Sections 65852.2 and 65852.22) were approved on September 28, 2022, and went into effect on January 1, 2023. The new legislation permits certain types of ADUs to have increased height allowances, allows greater flexibility in the number of ADUs and ADU placement on a property, and streamlines the process of obtaining an ADU permit with a 60-day turnaround timeline.

Section 5.2, respectively, below, discuss the changes that apply to ADUs and JADUs subject to AB 2221 and SB 897.

5.2 Changes to ADU and JADU Development Standards

The proposed amendments contain provisions that apply to applicable ADUs and JADUs. Where possible, staff maintained existing development standards from the previous ADUs ordinances. However, certain development standards were deleted or revised in order to comply with State law and clarify requirements that have either caused confusion or been too limiting. Table 1 summarizes the major changes to the County's existing development standards to comply with the changes approved in AB 2221 and SB 897 (GC Sections 65852.2 and 65852.22).

Table 1 – Comparison of New State Law vs. Proposed Local Development Standards

| Development Standard | State Law | Existing Standard | Proposed Standard |
|----------------------|--|--|---|
| Height | <p>Detached ADU: Up to 18 feet (if located within one-half mile walking distance of a major transit stop or on a lot with an existing or proposed multifamily, that is two stories high)</p> <p>Attached ADU: Up to 25 feet (if the ADU is attached to the primary dwelling, the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower)</p> | <p>New construction attached and detached ADUs:</p> <ul style="list-style-type: none"> • 16 feet - Detached • Height of principal dwelling - Attached • 25 feet for two-story detached ADU | <p>New construction attached ADUs: Same as State Law</p> <p>New construction ADUs:</p> <ul style="list-style-type: none"> • Same as State Law • Allows stacking up to 25 feet |
| Setbacks (front) | <p>ADU conversions: No setbacks</p> <p>New construction attached and detached ADUs: May encroach into front setback if it prevents the construction of an 800 sq. ft. ADU</p> | <p>ADU conversions: Same as State law</p> <p>New construction attached and detached ADUs: Comply with front setbacks of the applicable zone</p> | <p>ADU conversions: Same as State law</p> <p>New construction attached and detached ADUs: Same as State law</p> |
| Number of ADUs | <p>ADU entirely within a one-family dwelling or accessory structure: Can be combined with new construction detached ADU and JADU</p> <p>Detached ADU (new construction) on lot with a one-family dwelling: Can be combined with ADU conversion and JADU</p> | <p>ADU entirely within a one-family dwelling or accessory structure: Can only be combined with JADU</p> <p>Detached ADU (new construction) on lot with a one-family dwelling: Can only be combined with JADU</p> | <p>Conversion and New construction detached ADUs, and JADUs: Same as State law</p> |

Staff also prepared a minor cleanup amendment to the *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones* (Uniform Rules). This amendment simply updates the ADU definition for consistency with the LUDC, MLUDC, and CZO. On September 14, 2023, the Agricultural Preserves Advisory Committee (APAC) recommended that the Board adopt the amendment as proposed (Attachment F).

5.3 Other Amendments

5.3.1 Elimination of the SC Zone District

Earlier this year, P&D kicked off the Zoning Ordinance Amendment Project, which is an effort by Santa Barbara County to bring certain rules, regulations, and review processes up to date with County goals, and reflect current regulatory, economic, and environmental conditions. The overall objective is to make requirements clear and effective, streamline review processes, and incorporate flexibility to adapt to specific circumstances. The overall project consists of three primary sets of amendments to the County's land use and development regulatory documents: technical updates, housing accommodation, and process improvements. The proposed SC Zone Amendments is part of the technical update portion of the project, aimed at consolidating and standardizing existing requirements to better achieve the intent of current standards. To this end, the draft SC Zone Amendments are intended to facilitate active commercial centers, consistent with other commercial zones in the County.

The proposed amendment eliminates the SC zone district that currently applies to 98 acres across seven different areas in the inland portion of the County and rezoning those properties to the C-2 Zone (see Attachment E-2 for rezone sites). Less than half of the SC Zoned land is currently developed. The uses allowed in the SC Zone are more limited than those in the C-2 Zone, even though the types of allowed uses are largely the same. The limitations on use and nuances in the use regulations have presented, and continue to present, a barrier to the viability, development, and redevelopment of the SC Zoned areas that does not exist for the similarly situated areas in the C-2 Zone. Elimination of the SC Zone will not prevent the existing established shopping centers from expanding, nor would it preclude the existing undeveloped properties currently zoned SC from being developed as a multi-tenant commercial center under the C-2 provisions similar in nature to that of a shopping center.

While no SC zoned property exists in the coastal zone, the proposed CZO amendments eliminate references to the SC zone district as a clean-up item.

5.3.2 Minor Amendments

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

- An amendment to clarify that projects that are determined to be exempt from a planning permit by the P&D Director are not subject to appeal; and
- Amendments that correct and clarify existing development standards related to detached accessory structures (i.e., clarify height restrictions, gross floor area, and footprint limitations);
- An amendment to correct a permit type error on Table 2-22 of Section 35.26.030 (i.e., revise Transitional and Supportive Housing permit type in the Recreation zoning district); and

The complete text of the ordinance amendments are included in Attachment C-1 (LUDC), and Attachment D-1 (CZO). Deleted text is shown in strikethrough and new text is shown underlined.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

- 6.1.1 Case No. 23ORD-00007.** The proposed amendments to the LUDC are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3) and 15282(h) of the State Guidelines for Implementation of CEQA. CEQA Section 15282(h), provides a statutory exemption for cities or counties to adopt ADU ordinances to implement GC Section 65852.2. Consistent with Section 15061(b)(3), there is no possibility that the other proposed minor ordinance amendments will have a significant effect on the environment. As explained further in Attachment B, no significant environmental impacts would occur as a result of these ordinance amendments.
- 6.1.2 Case No. 23ORD-00009.** The proposed amendments to the CZO are recommended to be determined to be exempt from environmental review pursuant to Sections 15061(b)(3), 15265, and 15282(h) of the State Guidelines for Implementation of CEQA. State CEQA Guidelines Section 15282(h) provides a statutory exemption for cities or counties to adopt ADU ordinances to implement GC Section 65852.2. State CEQA Guidelines Section 15265 statutorily exempts local government activities involving the preparation and adoption of local coastal program amendments from environmental review. 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.
- 6.1.3 Case No. 23RZN-00003.** The proposed rezones from SC to C-2 are recommended to be determined to be exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines for Implementation of 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 the zoning map amendment.

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 amendments are consistent with the Comprehensive Plan, Coastal Land Use Plan (CLUP), CZO, and LUDC because they implement Program 1.4 (Tools to Incentivize High-Quality Affordable Housing) of the *2015-2023 Housing Element Update* (Housing Element) and update the zoning ordinances to be consistent with State ADU and JADU law.

The current Housing Element contains 37 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 1.4 directs the County to consider adopting land-use tools

to “provide housing opportunities for all segments of the population, including ... policies to encourage the development of unit types that are affordable by design ... and ... permit streamlining efforts.” Program 1.4 identifies and encourages the development of several unit types that are affordable by design, including ADUs, infill development, and mixed-use development.

The proposed amendments implement Program 1.4 by reducing the development standards applicable to ADUs and JADUs in compliance with State law and to further promote the development of ADUs. For example, the proposed amendments modify the height allowance to increase the flexibility for different ADU configurations and accommodate the common practice of constructing an ADU above a garage; remove the restrictions on the placement of ADUs in relation to the principal dwelling(s) on the lot; which has created a barrier to their development in numerous instances, so long as all the setback requirements are met; and permit limited development within the front setback consistent with state law if no other physical location is available on the lot to construct an ADU of at least 800 square feet, in order to provide greater flexibility that supports the development of ADUs. In addition, the proposed amendments are consistent with the Draft 2023-2031 Housing Element Update, and will implement draft Program 10, to facilitate the development of ADU production, and draft Program 16, reducing governmental constraints to facilitate housing production, including development in commercial zones.

The proposed amendments are consistent with the remaining portions of the CZO and LUDC that are not revised by these amendments. The proposed amendments include a provision that states where there are conflicts between the ADU or JADU standards of CZO Section 35-142 or LUDC Section 35.42.015 and other provisions of the zoning ordinances, the standards of CZO Section 35-142 or LUDC Section 35.42.015 shall prevail.

In the Coastal Zone, the County must consider ADU and JADU applications pursuant to GC Section 65852.2(l), which states: “Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 ...” Thus, ADUs and JADUs proposed within the Coastal Zone must be consistent with the Coastal Act and the resource protection policies and standards contained therein, which are codified within the proposed CZO amendment.

By implementing Program 1.4 and updating the zoning ordinances to be consistent with State ADU and JADU law, the proposed amendments are consistent with the Comprehensive Plan, including the current and Draft 2023-2031 Housing Element Update and applicable community and area plans, the CLUP, the requirements of State planning and zoning laws, the CZO, and the LUDC. Further, the other proposed amendments consist of clarifications and modifications to existing regulations as part of an ongoing effort to bring certain rules, regulations, and review processes up to date with County goals, and reflect current regulatory, economic, and environmental conditions. The overall objective is to make requirements clear and effective, streamline review processes, and incorporate flexibility to adapt to specific circumstances. The elimination of the SC zone and rezoning of these properties to C-2 will be consistent with the underlying land use designations of these properties, which would remain General Commercial or Neighborhood Commercial. As such, these other amendments are consistent with the Comprehensive Plan, including Community and Area Plans, as well as applicable CZO and LUDC regulations.

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 (Case Nos. 23ORD-00007 and 23ORD-00009)
- B. CEQA Notice of Exemption (Case Nos. 23ORD-00007 and 23ORD-00009)
- C. LUDC Resolution and Amendment (Case No. 23ORD-00007)
 - C-1. LUDC Amendments with Changes Shown
- D. CZO Resolution and Amendment (Case No. 23ORD-00009)
 - D-1. CZO Amendments with Changes Shown
 - D-2. Uncertified 2021 Amendments for Reference
- E. Planning Commission C-2 Rezone Resolution (Case No. 23RZN-00003)
 - E-1. Board Rezone Ordinance Amendment
 - E-2. Rezone Site Maps
- F. Uniform Rules ADU Amendment