

MONTECITO PLANNING COMMISSION

Staff Report for the

COVID-19 Temporary Ordinance Amendments Regarding Extending the Time Period for Suspension of Compliance with Certain Requirements of Approved Permits, Nonconforming Uses, and a Hardship Time Extension

Hearing Date: August 4, 2021

Staff Report Date: July 28, 2021

Case Nos.: 21ORD-00000-00007 and
20ORD-00000-00006

Environmental Document: CEQA Exempt
MLUDC: CEQA Guidelines Sections
15061(b)(3), 15301, 15303, 15305
CEQA Exempt Article II: CEQA Guidelines
Sections 15061(b)(3), 15301, 15303, 15305,
15265

Assistant Director: Jeff Wilson 

Phone: (805) 568-2085

Supervising Planner: Tess Harris

Phone #: (805)568-3319

1.0 REQUEST

Hearing on the request of the County of Santa Barbara Planning and Development Department regarding ordinance amendments to the Montecito Land Use and Development Code (MLUDC) and Article II Coastal Zoning Ordinance. The proposed ordinance amendments will extend the expiration of temporary allowances to suspend compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension to accommodate physical distancing due to the COVID-19 virus and/or support economic recovery in the County post-COVID-19. The temporary allowances are currently set to expire when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions are terminated earlier by ordinance amendment. The proposed amendments will extend the ordinance expiration date to September 30, 2022.

2.0 RECOMMENDATION AND PROCEDURES

2.1 Montecito Land Use and Development Code Ordinance Amendments Case No. 21ORD-00000-00007

Follow the procedures outlined below and recommend that the Board of Supervisors approve ordinance amendments to the Montecito Land Use and Development Code (Case No. 21ORD-00000-00007) based on the ability to make the required findings.

The Montecito Planning Commission's motion should include the following:

1. Make the required findings for approval of the MLUDC ordinance amendment (Attachment A), including California Environmental Quality Act (CEQA) findings, and

recommend that the Board of Supervisors make the findings for approval of the proposed ordinance amendment;

2. Recommend that the Board of Supervisors determine the MLUDC ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15301, 15303, 15305, and 15061(b)(3), included as Attachment B; and,
3. Adopt a Resolution recommending that the Board of Supervisors adopt an ordinance (Case No. 21ORD-00000-00007) amending Section 35-2, the MLUDC, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C).

2.2 Article II Ordinance Amendments - Case No. 21ORD-00000-00006

Follow the procedures outlined below and recommend that the Board of Supervisors approve ordinance amendments to Article II Coastal Zoning Ordinance (Case No. 21ORD-00000-00006) based upon the ability to make the required findings.

The Montecito Planning Commission's motion should include the following:

1. Make the required findings for approval of the Article II ordinance amendment, including CEQA findings, and recommend to the County Planning Commission that the County Planning Commission make the findings for approval and recommend that the Board of Supervisors make the findings for approval of the proposed ordinance amendment (Attachment D);
2. Recommend to the County Planning Commission that the County Planning Commission recommend to the Board of Supervisors that the Board determine that the Article II ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15301, 15303, 15305, 15061(b)(3), and 15265, included as Attachment E; and,
3. Adopt a resolution recommending that the County Planning Commission adopt a resolution recommending that the Board adopt an ordinance amending Article II (Case No. 21ORD-00000-00006), the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code (Article II) (Attachment F).

Refer back to staff if the Montecito Planning Commission takes other than the recommended action for the development of appropriate materials.

3.0 JURISDICTION

MLUDC Ordinance Amendments (Case No. 21ORD-00000-00007): This project is being considered by the Montecito Planning Commission based on County Code, Section 2-25.1(b), California Government Code Sections 65854 to 65857, and Chapter 35.494 of the MLUDC. The

County Code, Government Code, and the MLUDC require that the Montecito Planning Commission, as the designated planning agency for the unincorporated area of the County within the Montecito Community Plan area, review and consider proposed amendments to the MLUDC and provide a recommendation to the Board of Supervisors.

Article II Coastal Zoning Ordinance Amendments (Case No. 21ORD-00000-00006): This project is being considered by the Montecito Planning Commission in compliance with Section 2-25.2 of Chapter 2 of the Santa Barbara County Code. Section 2-25.2 provides that the Montecito Planning Commission may make a recommendation 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 Planning Area.

4.0 ISSUE SUMMARY AND BACKGROUND

On June 16, 2020, the Board of Supervisors approved the Temporary Development Standard Suspension Ordinance Amendments to implement regulations regarding the temporary suspension of compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension in order to protect public health and support a phased re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The ordinance established that the temporary authorization will expire on December 16, 2020, or when the proclaimed Santa Barbara County Local Emergency from COVID-19 is terminated, whichever is earlier.

On November 10, 2020 the Board of Supervisors adopted an ordinance amendment to revise the expiration date to remove the December 16, 2020 date and changed the expiration to when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated.

The proposed ordinance amendments will extend the expiration of the temporary allowances to September 30, 2022 which will allow the COVID-19 provisions to continue after the Santa Barbara County Local Emergency from the COVID-19 virus is terminated to support ongoing economic recovery from the impacts of COVID-19. The proposed ordinance amendments also include removing the restriction that no expansion of the existing capacity of a nonconforming use is not authorized by the temporary provisions, and that no permanent structures are proposed, constructed, or erected.

The ordinance amendment text is contained in Attachment C-1 (MLUDC) and Attachment F-1 (Article II). Proposed additions are underlined.

5.0 PROJECT ANALYSIS

5.1 Environmental Review

The proposed ordinance amendments, Case Nos. 21ORD-00000-00007 and 21ORD-00000-00006, can be found exempt from environmental review based upon Sections 15301, 15303, 15305, 15061(b)(3), and 15265 of the CEQA Guidelines.

CEQA Guidelines Section 15301 [Existing Facilities] states that a project is exempt from CEQA if the project “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.”

CEQA Guidelines Section 15303 [New Construction or Conversion of Small Structures] states that a project is exempt from CEQA if the project “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.”

CEQA Guidelines Section 15305 [Minor Alterations in Land Use Limitations] states that a project is exempt from CEQA if the activity consists of “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density[.]”

CEQA Guidelines Section 15061(b)(3) [Review for Exemption] states that a project is exempt from CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where 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.” The project is a request to extend the expiration date of an existing ordinance, and therefore there is no activity that will have a significant effect on the environment.

CEQA Guidelines Section 15265 [Adoption of Coastal Plans and Programs] is also applicable to Article II (Case No. 20ORD-00000-00009) in that it does not apply to activities and approvals pursuant to the California Coastal Act by any local government, as defined by Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program. This section shifts the burden of CEQA compliance from the local agency to the California Coastal Commission.

See Attachments B and E to this staff report for a detailed discussion of the exemptions.

5.2 Comprehensive Plan Consistency

The scope of proposed ordinance amendments is to extend the expiration date of the Temporary Development Standard Suspension Ordinance Amendments adopted by the Board on November 10, 2020 and to make other minor amendments that support economic recovery from the impacts of COVID-19. Whereas the ordinance is currently set to expire when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated. The proposed amendments will extend the ordinance expiration to September 30, 2022. The ordinance will continue to allow temporary change(s) to a project necessary to ensure physical distancing, protect public health, and support a re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19 and/or support economic recovery post COVID-19. The proposed ordinance amendments also include removing the restriction that no expansion of the existing capacity of a nonconforming use is not authorized by the temporary provisions, and that no permanent structures are proposed, constructed, or erected. These changes remain consistent with the Comprehensive Plan. However, the ordinance would otherwise require a project to comply with its approved project description, conditions of approval, applicable development standards, and the Comprehensive Plan, including Coastal Land Use Plan policies. The Comprehensive Plan Consistency in Section 7.2 of the staff report for the Temporary Development Standard Suspension Ordinance Amendments, dated May 27, 2020 and incorporated herein by reference (Attachment G) remains applicable to these amendments; and therefore, the proposed amendments do not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including the relevant community plan(s), or the Coastal Land Use Plan.

5.3 Zoning Ordinance Compliance

The Zoning Ordinance Compliance analysis in Section 7.3 of the staff report, dated May 27, 2020 and incorporated herein by reference (Attachment G) remains applicable. The proposed ordinance amendments are consistent with the MLUDC and Article II as they only extend the expiration date of the COVID-19 ordinance amendments, adopted by the Board of Supervisors on November 10, 2020 and to make other minor amendments that support economic recovery from the impacts of COVID-19. These proposed ordinance amendments would allow a temporary suspension of specific development standards until September 30, 2022.

6.0 PROCEDURES

MLUDC: The Montecito Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance amendment to the Board of Supervisors.

Article II: The Montecito Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance amendment to the County Planning Commission, who will then recommend approval, approval with revisions, or denial to the Board of Supervisors.

7.0 APPEALS PROCEDURE

Ordinance amendments recommended for approval or denial are legislative acts that are automatically forwarded to the Board of Supervisors for final action. Therefore, the ordinance amendments are not subject to appeal.

ATTACHMENTS

- A. 21ORD-00000-00007 (MLUDC) Findings
- B. 21ORD-00000-00007 (MLUDC) Notice of Exemption
- C. 21ORD-00000-00007 (MLUDC) Resolution
- C-1. 21ORD-00000-00007 (MLUDC) Proposed Ordinance
- D. 21ORD-00000-00006 (Article II) Findings
- E. 21RD-00000-00006 (Article II) Notice of Exemption
- F. 21ORD-00000-00006 (Article II) Resolution
- F-1. 21ORD-00000-00006 (Article II) Proposed Ordinance
- G. Montecito Planning Commission Staff Report for COVID-19 Ordinance Amendments, dated May 27, 2020