



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: June 16, 2020
Placement: Departmental
Estimated Time: 30 minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors
FROM: Department Director Lisa Plowman, Director, Planning and Development
(805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Planning and Development
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SUBJECT: COVID-19 Temporary Ordinance Amendments Regarding Suspension of Compliance with Certain Requirements of Approved Permits and Nonconforming Uses and a Hardship Time Extension Process
Case Nos. 20ORD-00000-00004, 20ORD-00000-00005, and 20ORD-00000-00006

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

Consider the recommendations of the County and Montecito Planning Commissions to approve Case Nos. 20ORD-00000-00004, 20ORD-00000-00005, and 20ORD-00000-00006, which would amend, respectively, the County Land Use and Development Code, the Article II Coastal Zoning Ordinance, and the Montecito Land Use and Development Code, to: 1) authorize the temporary suspension of compliance with the project description and/or conditions of approval related to certain development standards, if necessary, to ensure physical distancing and/or other public health requirements can be met; 2) allow nonconforming uses to take advantage of this temporary suspension of compliance with development standards as determined to be necessary for the protection of public health related to COVID-19 in order to expand or extend without losing their nonconforming status; and 3) allow time extensions for approved projects due to hardship related to COVID-19 and the associated economic downturn.

To follow the recommendations of the County and Montecito Planning Commissions, your Board's action should include the following:

- a) **Case No. 20ORD-00000-00004 (County LUDC Amendment):**
 - i) Make the findings for approval of the Ordinance Amendment, including California Environmental Quality Act (CEQA) findings, of the proposed Ordinance (Attachment 1);

- ii) Determine that the adoption of this Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15301, 15303, and 15305 (Attachment 2);
 - iii) Read the title and waive further reading of the Ordinance; and,
 - iv) Supersede Emergency Rule #2 by adopting the Ordinance (Case No. 20ORD-00000-00004) amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 3).
- b) Case No. 20ORD-00000-00005 (Article II Coastal Zoning Ordinance Amendment):**
- i) Make the findings for approval of the Ordinance Amendment, including CEQA findings, of the proposed Ordinance (Attachment 4);
 - ii) Determine that the adoption of this Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15301, 15303, and 15305 (Attachment 5);
 - iii) Read the title and waive further reading of the Ordinance; and,
 - iv) Supersede Emergency Rule #2 by adopting the Ordinance (Case No. 20ORD-00000-00005) amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment 6).
- c) Case No. 20ORD-00000-00006 (Montecito LUDC Amendment):**
- i) Make the findings for approval of the Ordinance Amendment, including CEQA findings, of the proposed Ordinance (Attachment 7);
 - ii) Determine that the adoption of this Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15301, 15303, and 15305 (Attachment 8);
 - iii) Read the title and waive further reading of the Ordinance; and,
 - iv) Supersede Emergency Rule #2 by adopting the Ordinance (Case No. 20ORD-00000-00006) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the County Code (Attachment 9).

Summary Text:

On March 12, 2020, the Santa Barbara County Director of Emergency Services proclaimed a local emergency related to the novel coronavirus (COVID-19) pursuant to Government Code Section 8550 et seq. and Chapter 12, Section 12-5(a) of the Santa Barbara County Code. The Board of Supervisors ratified this proclamation on March 17, 2020.

On March 19, 2020, the Governor issued Executive Order N-33-20, which directed “shelter in place” for Californians to reduce the spread of COVID-19 and protect the public health of residents.

On May 21, 2020, a new County of Santa Barbara Health Officer Order (No. 2020-8.2) was issued, allowing the County of Santa Barbara to begin to reopen lower-risk businesses and community entities that qualify under Stage 2 (e.g., retail, dine-in restaurants) and future Stages with modified operations and physical distancing measures. The proposed ordinance amendments provide temporary suspension of compliance with project descriptions and/or conditions of approval related to certain development standards so that businesses and community operations can use outdoor areas to ensure they can meet physical distancing and/or comply with other public health requirements put in place by federal, state, or local public health officials to limit the spread of COVID-19. Projects making changes consistent with these ordinance amendments during the defined time period would not require a planning permit to make the temporary change.

On May 25, 2020, the County Executive Officer issued Emergency Rule #2, that temporarily suspended Chapter 35 permit restrictions, including conditions of approval, and any zoning development standards

for regulations that otherwise prohibit or limit wineries and wine tasting rooms from serving food, as long as compliance with State law regulating retail food and alcohol directives regarding reopening of businesses. On June 2, 2020, the Board of Supervisors confirmed Emergency Rule #2. Action by the Board to approve the ordinance amendments discussed herein (20ORD-00000-00004, 20ORD-00000-00005, and 20ORD-00000-00006) supersedes Emergency Rule #2.

Proposed Amendments:

The complete texts of the ordinance amendments are contained in Attachment 3 (County LUDC), Attachment 6 (Article II), and Attachment 9 (MLUDC). In summary, the proposed ordinance amendments for the County LUDC, Article II, and the MLUDC would:

- Add language that, for approved projects, authorizes the temporary suspension from compliance with certain requirements of approved zoning permits, effective from the date of approval of the ordinance (for Article II, the effective date of the ordinance would be the date that the Executive Director of the Coastal Commission executes a waiver of the emergency coastal permit requirements pursuant to Public Resources Code Section 30611) until December 16, 2020, or when the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier;
- Add language that, for approved projects, authorizes the temporary suspension of compliance with the project description and/or conditions of approval related to the following development standards: setbacks; site coverage maximums; minimum open space; parking and loading standards; signs; the requirement that uses shall occur within a completely enclosed building; restrictions on uses in the right of way; limitations on food service at wineries and tasting rooms; or other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19;
- Add language that would establish the documentation that would be required for a project to take advantage of the temporary suspension of certain requirements identified in their approved permit;
- Add language that would establish the requirements that a project would have to comply with in order to be eligible for the temporary suspension of development standards identified in their approved permit;
- Add language that would allow nonconforming uses to take advantage of this temporary suspension of compliance with development standards as determined to be necessary for the protection of public health related to COVID-19 in order to expand or extend without losing their nonconforming status; and
- Add language that would allow a streamlined process for time extensions for approved projects due to hardship related to COVID-19 and the associated economic downturn.

Montecito Planning Commission and County Planning Commission:

Montecito Planning Commission: The Montecito Planning Commission reviewed the MLUDC and Article II ordinance amendments at the June 3, 2020 public hearing. By a unanimous vote, the Montecito Planning Commission adopted Article II Resolution No. 20-3, recommending that the County Planning Commission recommend that the Board adopt the proposed amendments to the Article II Coastal Zoning Ordinance. In addition, by a unanimous vote, the Montecito Planning Commission

adopted MLUDC Resolution No. 20-2 (Attachment 9) recommending that the Board adopt the proposed amendments to the MLUDC.

The Montecito Planning Commission Action Letter (Attachment 12), MLUDC Resolution and Proposed Ordinance No. 20-2 (Attachment 12-2), and the Article II Resolution and Proposed Ordinance No. 20-3 reflect the recommendations of the Montecito Planning Commission. The County Planning Commission accepted the changes recommended by the Montecito Planning Commission, including the change from “social distancing” to “physical distancing” and the inclusion of language regarding nonconforming uses and time extensions, and therefore, Proposed Ordinance No. 20-5 (Attachment 10-4) represents the both Planning Commission’s recommendations to your Board for Article II.

County Planning Commission: The County Planning Commission reviewed the LUDC and Article II ordinance amendments at the June 3, 2020 public hearing, and by a unanimous vote, adopted Resolution Nos. 20-4 and 20-5 (Attachments 10-2 and 10-4) recommending that the Board adopt the proposed amendments to the County LUDC and the Article II Coastal Zoning Ordinance.

The County Planning Commission Action Letter (Attachment 10), LUDC Resolution and Proposed Ordinance No. 20-4 (Attachment 10-2), and the Article II Resolution and Proposed Ordinance No. 20-5 (Attachment 10-4) reflect the recommendations of the County Planning Commission.

Policy Consistency and Ordinance Compliance:

The proposed temporary ordinance amendments do not alter the purpose and intent of any policies or development standards of the Comprehensive Plan and any Community Plans. The temporary ordinance amendments will allow applicable businesses and community entities to re-open and maintain safe physical distancing standards to protect the public health during all of the stages of the Governor’s re-opening plan. The proposed ordinance amendments are also consistent with policies in the LUDC, Article II, and the MLUDC related to the provision of adequate services, the supporting of local businesses to maintain a vibrant economy, and for the preservation of biological and other natural habitats in the County. The temporary ordinance amendments do not allow the construction or erection of new structures, and projects still need to comply with all applicable health and safety requirements in the County. Finally, the temporary ordinance amendments still require projects to otherwise comply with their approved project description, conditions of approval, applicable development standards, and the Comprehensive Plan, including the relevant community plan(s), or the Coastal Land Use Plan policies.

Please refer to the Montecito Planning Commission staff report and the County Planning Commission staff report for a detailed Comprehensive Plan consistency analysis and zoning ordinance compliance analysis of the proposed ordinance amendments (Attachments 13 and 11).

Fiscal Analysis:

Funding for updates to zoning ordinances is budgeted the Long Range Planning Budget Program on page D-269 of the County of Santa Barbara Fiscal Year 2019-2020 budget. The cost to process the COVID 19 Ordinance Amendments is approximately \$30,000. These costs will be included in the Planning and Development Department, Long Range Planning Division’s Operating Expenditures

(General Fund contribution). There are no facilities impacts. Implementation of the COVID19 Ordinance Amendments will occur primarily through the development review process.

Special Instructions:

- A. The Planning and Development Department will satisfy all noticing requirements.
- B. The Clerk of the Board will provide copies of the Minute Order and signed Ordinances to the Planning and Development Department, attention David Villalobos.
- C. The Planning and Development Department will publish the names of the members of the Board of Supervisors voting for and against the Ordinance Amendments in the Santa Barbara News-Press before the expiration of 15 days after its passage.

Attachments:

- 1. 20ORD-00000-00004 (LUDC) Findings
- 2. 20ORD-00000-00004 (LUDC) Notice of Exemption
- 3. 20ORD-00000-00004 (LUDC) Proposed LUDC Ordinance Amendment
- 4. 20ORD-00000-00005 (Article II) Findings
- 5. 20ORD-00000-00005 (Article II) Notice of Exemption
- 6. 20ORD-00000-00005 (Article II) Proposed Article II Ordinance Amendment
- 7. 20ORD-00000-00006 (MLUDC) Findings
- 8. 20ORD-00000-00006 (MLUDC) Notice of Exemption
- 9. 20ORD-00000-00006 (MLUDC) Proposed MLUDC Ordinance Amendment
- 10. County Planning Commission Action Letter
 - 10-1. 20ORD-00000-00004 (LUDC) County Planning Commission Findings
 - 10-2. 20ORD-00000-00004 (LUDC) County Planning Commission Resolution No. 20-4
 - 10-3. 20ORD-00000-00005 (Article II) County Planning Commission Findings
 - 10-4. 20ORD-00000-00005 (Article II) County Planning Commission Resolution No. 20-5
- 11. June 3, 2020 County Planning Commission Staff Report (w/o attachments)
- 12. Montecito Planning Commission Action Letter
 - 12-1. 20ORD-00000-00006 (MLUDC) Montecito Planning Commission Findings
 - 12-2. 20ORD-00000-00006 (MLUDC) Montecito Planning Commission Resolution No. 20-2
- 13. June 3, 2020 Montecito Planning Commission Staff Report (w/o attachments)
- 14. Draft Checklist for Business Owners to Request Changes to Approved Projects, located here:
https://countyofsb.org/uploadedFiles/plndev/Content/Permitting/SBCPEP_PAD%20Checklist.pdf

Authored by:

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