

ATTACHMENT 8:

ARTICLE II CZO CEQA NOTICE OF EXEMPTION

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TO: Santa Barbara County Clerk of the Board of Supervisors
FROM: Noel Langle, Senior Planner
Planning and Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970 as defined in the State and County guidelines for the implementation of CEQA.

APN(s): Not applicable.

Case No.: 15ORD-00000-00004

Location: The proposed ordinance amendment would apply solely to the unincorporated area of Santa Barbara County located within the Coastal Zone.

Project Title: 2016 General Package Ordinance Amendments.

Project Description: 15ORD-00000-00004 proposes to amend Division 1, In General, Division 2, Definitions, Division 4, Zoning Districts, Division 5, Overlay Districts, Division 7, General Regulations, Division 8, Services, Utilities and Other Related Facilities, Division 11, Permit Procedures, and Appendix G, Development Standards For Residential Second Units On Lots Less Than Two Acres In Size Served By Onsite Sewage Disposal Systems, of the Santa Barbara County Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, to regarding:

- Agricultural employee proof of employment
- Cabaña requirements.
- Community Care facilities.
- CUP Design Review requirements.
- Lot Line Adjustments standards for approval.
- Medical marijuana cultivation regulations cross-reference.
- Overlay Zone - Airport Approach.
- Permit exemptions.
- Public safety facilities.
- Use Determinations procedures.
- Wastewater disposal permit requirements and standards for private systems.

The proposed ordinances also make other minor corrections and language revisions that do not materially change the existing regulations and serve only to clarify or correct existing language.

Exempt Status:

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect Section 15061(b)(3)

Cite specific CEQA Guideline Section: Section 15061(b)(3) (No possibility of significant effect) and Section 15265 (Adoption of Coastal Plans and Programs).

Section 15061(b)(3). CEQA Section 15061(b)(3) states that “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.”

Section 15265. CEQA Section 15264 states that CEQA does not apply to activities and approvals pursuant to the California Coastal Act necessary for the preparation and adoption of a local coastal program.

Reasons to support exemption findings: The following provides a brief discussion of the proposed amendments.

Agricultural Employee Proof of Employment: Article II currently provides that additional residences that provide housing for four or fewer agricultural employees engaged full-time in agriculture may be allowed with a Minor CUP in the AG-I and AG-II zones; in the same zones, additional residences that provide housing for five or more agricultural employees engaged full-time in agriculture may be allowed with a Major CUP. Such residences may be located in permanent structures as well as trailers.

Article II requires that an application for a Minor CUP for a permanent structure must include proof of full-time employment for each prospective resident(s), but does not provide any examples of what constitutes acceptable proof. An application for a Minor CUP for a trailer must also include proof of full-time employment for each prospective resident(s); however, in this instance Article II does include the following examples of what constitutes acceptable proof:

- Employer's income tax return.
- Employee's pay receipts.
- Employee's W-2 form.
- Notarized contract between applicant and employee which delineates work to be performed and wages to be received.
- Employer's DE-3.
- Other option approved by Planning and Development.

As mentioned above, the occupancy of residences allowed with a Major CUP are also restricted to agricultural employees engaged full-time in agriculture but the existing Article II language does not stipulate that proof of such full-time employment must be provided.

The proposed amendment to Article II:

- Requires that proof of employment be provided for all agricultural employee housing; however, the submission of proof may be delayed until the identity of the employee is known.
- Creates a new Section 35-144R (Agricultural Employee Dwellings) that contains all the permit requirements and development standards for agricultural employee dwellings.

- Adds the following new requirements for agricultural employee dwellings that are allowed by a CUP:
 - The need for the additional dwellings and proof of full-time employment of the residents is provided every five years from the issuance of the permit (unless deferred) for the dwelling, or, if the occupancy changes, upon the change in occupancy and every five years thereafter.
 - Prior to the issuance of the permit for the dwelling a Notice to Property Owner prepared by the Department that specifies (1) the occupancy requirements of the agricultural employee dwelling and (2) the requirement for provision of documentation of employment and the need for the agricultural employee dwelling as described above shall be recorded by the property owner.
- Deletes duplicative development standards from Section 35-132.8 regarding the use of trailers for agricultural employee dwellings.

Cabaña requirements: Cabañas (pool houses) are currently allowed as a structure accessory to the residential use of property in conjunction with a proposed pool or sport court provided that construction of the proposed pool or sport court is completed before or simultaneously with completion of the cabaña. A cabaña may also be approved on a lot that is directly adjacent to the sea. Both cabañas and guest houses may contain a wetbar and a full bathroom (i.e., toilet, sink, and bathing facilities); however, the zoning ordinances specifically prohibit cabañas from being used as a guesthouse or dwelling and for overnight accommodations. Unlike a guest house which requires a minimum lot area of either one acre in the Coastal Zone, there is no minimum lot size required to have a cabaña. The proposed amendment would:

- Add the following definition of Sports Court and Swimming Pool:

Sports Court. A structure which consists of a hardscape or other surface having a minimum size of 20 feet by 50 feet that is utilized in connection with a flat game court structure devoted to recreational purposes including basketball, handball, tennis, and volleyball but excluding bocce ball courts, lawn bowling courts and similar facilities, patios, and areas used for driveways or parking of vehicles.

Swimming pool. A swimming pool is defined as any open structure containing a body of water, whether above or below the ground, having a minimum length, width and depth of 45 feet, eight feet and 42 inches, respectively, and which shall be designed for and used or intended to be used for swimming by individuals. The following shall be excluded from this definition:

- (1) Hot tubs, spas, including swim spas, and similar facilities.
 - (2) Ornamental ponds or water features, developed as landscape design features where swimming is not intended and does not occur.
 - (3) Portable, inflatable, and wading pools.
- Add the following restrictions on the use of the cabaña:

The cabaña may be maintained and used as a cabaña provided that the sports court or swimming pool that the cabaña is accessory to is also maintained on the lot. If the sports court or swimming pool to which the cabaña is accessory to is abandoned or removed, then the use of the cabaña shall cease and the structure shall either be removed or lawfully converted to an allowed accessory structure within 90 days following the abandonment or removal of the sports court or swimming pool.

Community Care Facilities: Regulations regarding community care facilities (e.g., day care, special care homes) were originally added to the County's zoning ordinances in 1985 and, with the exception of permit requirements for child care, have not been significantly amended since then. Revisions are necessary to be consistent with existing State regulations regarding community care facilities. This amendment revises the existing language to:

- Be better organized and reduce repetition,
- Comply with State requirements,
- Allow day care facilities to be used for adult day care in addition to child day care, and
- Allow the review authority as part of their action on a Conditional Use Permit to modify development standards for non-residential day care centers regarding limits on the number of clients and the size of the facility, and the requirement that outdoor play areas be separated from adjacent uses by a solid, masonry wall at least four feet in height, provided the facility may still be found to be compatible with the adjacent land uses.

CUP Design Review requirements: The design review regulations in Article II require that any structure or sign proposed within the Montecito Community Plan area is subject to design review by the Montecito Board of Architectural Review. However, the CUP processing requirements only specify that residential structures on lots adjacent to the sea are subject to design review. Therefore, to provide internal consistency within Article II, and also require design review for larger projects, the amendment revises the CUP processing requirements to additionally require design review for:

- An application for a structure or sign located within the Montecito Community Plan Area.
- An application for a Major Conditional Use Permit.
- An application for a Minor Conditional Use Permit as specifically identified by the Director, Zoning Administrator, Commission, or Board.

Lot Line Adjustments standards for approval: In order to approve a Lot Line Adjustment the review authority must find that any lot involved in the adjustment whose existing area equals or exceeds the minimum lot area requirement of the applicable zone shall not become smaller than the minimum lot area requirement as a result of the adjustment. However, in addition to the minimum lot area requirement, the R-1/E-1 and R-2 zone zones also have a minimum lot width requirement. This amendment adds that in addition to the finding regarding minimum lot area, the review authority, in order to approve a lot line adjustment, must also find that any lot involved in the adjustment whose existing lot width is equals or exceeds the minimum lot width requirement of the applicable zone shall not become smaller than the minimum lot width requirement as a result of the adjustment. This amendment also several minor revisions to the existing development standards.

Medical marijuana cultivation regulations cross-reference: This amendment revises the existing language in the zoning ordinance that prohibits medical marijuana dispensaries to include a cross-reference to Article X of Chapter 35, Zoning, of the County Code regarding the cultivation of medical marijuana.

Overlay Zone - Airport Approach: This overlay zone requires that prior to the approval of a permit located within an airport clear zone that involves the storage of more than 10 gallons of flammable liquids or hazardous materials:

- The applicable Fire Department or Fire Protection District shall review the requested permit, and
- Any potential hazards associated with the storage of said materials are mitigated to the reasonable satisfaction of the applicable Fire Department or District.

This amendment revises the overlay zone language to include the County Public Health Department in the review of such permits and require that any potential hazards associated with the storage of said materials will also be mitigated to the reasonable satisfaction of the County Public Health Department. This recognizes that the Environmental Health Services Division of the Public Health Department has the responsibility to implement Federal and State laws addressing hazardous materials.

Permit Exemptions: Article II lists those uses that are exempt from a planning permit under the processing requirements for Coastal Development Permits. The amendment to Article II deletes the exemptions from this section and places them in a new Section 35-57B titled “Exemptions from Planning Permit Requirements.” The amendment also makes the following revisions:

Accessory structures. Currently one story detached accessory structures used as tool or storage sheds, playhouses, gazebos, pergolas, and similar structures, do not require a planning permit provided that the height does not exceed 12 feet, the roof area does not exceed 120 square feet, and the structure does not contain any plumbing or electrical facilities. This amendment revises the existing exemption to specify that the floor area, instead of the roof area, is limited to 120 square feet in order to be consistent with a recent amendment to the building code.

Change of occupancy or use. The amendment adds a new exemption to clarify that a change in the occupancy or use of an existing structure that meets the following requirements does not require a new planning permit:

- The occupancy or use that exists prior to the change is a legal, permitted use of the structure.
- The change is from a land use listed as a permitted use in the applicable land use tables to the same land use (e.g., from restaurant, café or coffee shop to a restaurant, café or coffee shop).
- The new occupancy or use does not result in an increase in the number of parking spaces required to be provided on-site.
- The new occupancy or use is established and operated in compliance with the setback requirements, height limits, parking requirements, and all other applicable

standards of Article II, including any required provisions and conditions of any existing, approved permits for the subject lot.

- Any permit or approval required by regulations other than Article II is obtained (for example, a Building Permit and/or Grading Permit).

Demolition. The amendment adds a new exemption that applies to the demolition of structures that are less than 50 years old. If the structure is 50 years old or greater, then the exemption could still apply provided either the Director or the Historic Landmark Advisory Commission determines that the structure is not historically significant.

Lot Line Adjustment recordation. The amendment adds a new exemption that provides that the recordation of documents required to complete a Lot Line Adjustment is exempt provided that a Coastal Development Permit was approved in conjunction with the approval of the Lot Line Adjustment and the Coastal Development Permit has not expired.

Onsite wastewater treatment system modifications. The amendment adds a new exemption to clarify that the modification, replacement or repair of an existing system does not require a new planning permit provided that the modification, replacement or repair occurs in substantially the same area as the existing system.

Replacement of existing, conforming structures. The amendment adds a new exemption to clarify that the replacement of an existing permitted and conforming structure does not require a new planning permit provided:

- The reconstructed structure complies with all requirements of the applicable zone, is for the same use, is located in the in the same footprint, and does not exceed the floor area, height, or bulk of the existing structure.
- The exterior design or specifications are not proposed to be revised, or, if revisions are proposed, the revisions are determined to be minor by the Director.
- The structure is less than 50 years old or, if the structure is 50 years old or greater, either the Director or the Historic Landmark Advisory Commission has determined that it is not historically significant.

Signs, flags, and similar devices. The amendment includes new exemptions for:

- Signs, flags and similar devices that are exempt in compliance with Section 35-138 (Signs and Advertising Structures), provided the development does not exceed a maximum height of 35 feet and is not lighted. Signs, flags and similar devices that are exempt in compliance with Section 35-138 are limited to:
 - Flags of a governmental entity or a civic, philanthropic, educational, or religious organization.
 - Signs and devices erected by a governmental entity.
 - Signs erected by a public utility or common carrier to warn of dangers, such as the location of underground facilities and railroad crossings.

- Signs required to be maintained or posted by law or governmental order, rule, or regulation.
- Signs within buildings.
- Signs that may be permitted in compliance with Section 35-138 (Signs and Advertising Structures) that are proposed to be affixed to existing, lawfully constructed structures.

Public Safety Facilities: Currently, Article II does not provide for public safety facilities that house public safety personnel and equipment (e.g., police, fire, paramedics). To provide flexibility in locating such facilities in the Coastal Zone, this amendment adds Public Safety Facility to the list of uses allowed with a Major Conditional Use Permit in all zones.

Use Determinations Procedures: Currently several zones in Article II provide that in addition to the uses listed as permitted uses in the specific zone districts that the Planning Commission may determine that other uses may be permitted if they are found to be similar in character to uses that are already listed as permitted uses. However, Article II does not contain any procedure for how these determinations are made. This amendment adds a Use Determination process that includes noticing and public hearing requirements, and the ability to appeal the decision by the Planning Commission.

Wastewater disposal permit requirements and standards for private systems: The amendments revise Article II to be consistent with existing County standards regarding the design, maintenance and permitting of onsite wastewater treatment systems (OWTS), commonly referred to as septic systems, as follows:

- Rename the following terms as currently listed in the allowable uses for the individual zones:
 - “Wastewater treatment system, individual” is replaced with “Onsite wastewater treatment system, individual, conventional.”
 - “Wastewater treatment system, individual, alternative” is replaced with “Onsite wastewater treatment system, individual, alternative.”
- Add “Onsite wastewater treatment system, individual, supplemental” as a new use category. Supplemental treatment systems are onsite wastewater treatment systems that utilize engineered designs and/or technology to treat effluent to reduce one or more constituents of concern in wastewater. They may also be referred to as Advanced Treatment Systems or Enhanced Treatment Systems. Examples include sand filters, textile filters, and aerobic treatment units. Composting or incinerating toilets are not included within the definition of supplemental treatment systems.
- Delete the existing provision that allows residential second units located on lots less than two acres in size to be served by an OWTS if soil and other constraints for sewage disposal are determined to be particularly favorable by the Public Health Department as this is no longer allowed by the new regulations. This amendment also requires that a residential second unit proposed to be served by an OWTS shall not be allowed in addition to a principal dwelling on a lot less than two gross acres in size if the principal dwelling is served by or is proposed to be served by an OWTS as the new regulations require a one-acre lot size per dwelling.

- Delete the existing provision that allows residential second units to be served by an OWTS if service by a sanitary district is not available because there is a moratorium on new connections as this is also no longer allowed by the new regulations.
- Add several new definitions consistent with how these terms are defined in Chapter 18C.

In conclusion, these amendments serve to clarify and revise existing regulations and permit procedures to comply with State law and make minor text clarifications which will not in an increase in permitted densities or modifications to resource protection policies. The proposed ordinance amendments also revise existing permit processes to enhance efficiency, add new development standards and restrictions pertaining to specific land uses which will serve to minimize potential adverse impacts to the surrounding area, and correct and clarify existing text provisions.

Therefore, it can be seen with certainty that there is no possibility that this activity may have a significant effect on the environment.

Department/Division Representative

Date

Acceptance Date (date of final action on project): _____

Date Filed by County Clerk: _____

Note: A copy of this form must be posted at Planning and Development six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days.

Distribution: (for posting six days prior to action, and posting original after project approval)
Hearing Support Staff
15ORD-00000-00004 file