



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: 08/29/2017
Placement: Set hearing
Estimated Tme: 45 minutes on 09/12/2017
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Glenn Russell, Ph.D. (805) 568-2085
Contact Info: Dianne Black, Assistant Director (805) 568-2086
SUBJECT: Accessory Dwelling Units Ordinance Amendments

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: N/A

Other Concurrences: N/A

Recommended Actions:

On August 29, 2017, set a hearing for September 12, 2017 to consider the recommendations of the County and Montecito Planning Commissions to approve Case Nos. 16ORD-00000-00014, 16ORD-00000-00015 and 16ORD-00000-00016 which would amend, respectively, the County Land Use and Development Code, the Montecito Land Use and Development Code, and the Article II Coastal Zoning Ordinance, to revise existing development standards and permit procedures in order to implement recent State legislation regarding accessory dwelling units.

On September 12, 2017, your Board's action should include the following:

a) Case No. 16ORD-00000-00014 (County LUDC Amendment):

- i) Make the findings for approval, including CEQA findings, of the proposed Ordinance (Attachment 1);
- ii) Determine that the adoption of this Ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Section 15282(h) of the Guidelines for Implementation of CEQA (Attachment 2); and,
- iii) Adopt an Ordinance (Case No. 16ORD-00000-00014) 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. 16ORD-00000-00015 (Montecito LUDC Amendment):

- i) Make the findings for approval, including CEQA findings, of the proposed Ordinance (Attachment 4);
- ii) Determine that the adoption of this Ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Section 15282(h) of the Guidelines for Implementation of CEQA (Attachment 5); and,
- iii) Adopt an Ordinance (Case No. 16ORD-00000-00015) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 6).

c) Case No. 16ORD-00000-00016 (Article II Coastal Zoning Ordinance Amendment):

- i) Make the findings for approval, including CEQA findings, of the proposed Ordinance (Attachment 7);
- ii) Determine that the adoption of this Ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Sections 15282(h) and 15265 of the Guidelines for Implementation of CEQA (Attachment 8); and,
- iii) Adopt an Ordinance (Case No. 16ORD-00000-00016) amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment 9).

Summary Text:

1.0 General information.

Recent legislation (Assembly Bill 2299 and Senate Bill 1069) enacted by the State legislature in 2016 seeks to promote the development of additional housing opportunities in California by streamlining the process for property owners to add a second dwelling unit on residentially zoned property. This legislation, which became effective on January 1, 2017, revised the language of Government Code Section 65852.2 regarding the development second dwelling units (referred to in the statute as accessory dwelling units, or ADUs) that are accessory to an existing principal dwelling and are located on residentially-zoned property. Section 65852.2:

- Requires that applications for ADUs in residential zones shall be processed in a ministerial manner,
- Includes development standards that local jurisdictions must use in reviewing applications for ADUs,
- Limits the scope of development standards that local jurisdictions may use in reviewing applications for ADUs, and
- Provides that ADUs may either be attached to the principal dwelling, or a detached and located in a separate accessory structure.

Section 65852.2 also states that local regulations that apply outside of the Coastal Zone and that are not in compliance with the statute are null and void as of January 1, 2017. Since the County's adopted regulations regarding ADUs (referred to as residential second units in the existing zoning ordinances) that apply outside of the Coastal Zone are inconsistent with Section 65852.2, they became null and

void as of January 1, 2017. Therefore, until such time as the County Land Use and Development Code (CLUDC) and the Montecito Land Use and Development Code (MLUDC) are amended to conform to Section 65852.2, any applications for ADUs that are submitted for property located outside the Coastal Zone must be reviewed and approved in accordance with the specific standards of the statute. Local jurisdictions may either amend their existing regulations in a manner that conforms to the new requirements, or not amend the existing regulations and instead simply approve applications for ADUs if the proposed development conforms to the requirements of Section 65852.2. See Attachment 10 for the current text of Section 65852.2. Also attached is a California Department of Housing and Community Development memorandum that addresses implementing Section 65852.2 (Attachment 11).

The adopted regulations that apply within the Coastal Zone are contained in the Article II Coastal Zoning Ordinance (Article II) which is part of the County's certified Local Coastal Program. A recent memorandum issued by John Ainsworth, Executive Director of the California Coastal Commission (see Attachment 12) concludes that ADU provisions that are part of a certified Local Coastal Program are not superseded by Government Code Section 65852.2 and continue to apply to applications for ADUs. The memorandum goes on to recommend that local jurisdictions amend their Local Coastal Programs in order to reconcile Coastal Act requirements with the new ADU statute as this will:

- Accomplish the Legislature's goals regarding the encouragement of ADUs while still protecting coastal resources, and
- Implement the Coastal Act regarding encouraging housing opportunities for low and moderate income households and concentrating development in existing developed areas.

Therefore, the Planning and Development Department recommends that your Board follow the recommendations of the County Planning Commission and the Montecito Planning Commission, as described in the attached Resolutions (Attachments 13, 14 and 15), and amend:

- The CLUDC and the MLUDC in order conform to the requirements of Section 65852.2, and
- Article II so that it encourages the development of ADUs while still maintaining coastal resource protection standards.

The revisions to the CLUDC and the MLUDC will take effect 30 days following an action by the Board of Supervisors to adopt the ordinances. Because the amendment to Article II constitutes an amendment to the County's certified Local Coastal Program, the revisions will take effect following final certification by the California Coastal Commission.

2.0 Proposed amendments.

The following provides a summary of the major changes to the existing permit requirements and development standards that apply to ADUs that are required in order to be consistent with Section 65852.2 regarding the permitting of ADUs that are accessory to existing principal dwellings located on residentially zoned lots. Because Section 65852.2 does allow local jurisdictions greater latitude in applying development standards where the ADU would either (1) not be accessory to an existing principal dwelling on a residentially-zoned lot, or (2) would be located on a lot that is not zoned residential, the proposed amendments generally maintain the existing permit requirements and development standards that apply to ADUs in these situations. Additional analysis may be found in the attached County Planning Commission and Montecito Planning Commission staff reports and

memoranda.

The proposed amendments also include:

- Revisions to various sections of the zoning ordinances in order to provide internal consistency within the zoning ordinances with the new regulations that apply to ADUs (e.g., replacing the term “residential second units” with “accessory dwelling units”).
- Minor corrections and language revisions that do not materially change the existing regulations and serve only to clarify or correct existing language.
- Delete language that only applies within the Coastal Zone from the CLUDC and MLUDC since Article II continues to be the implementing ordinance of the County’s certified Local Coastal Program.

These revisions are not discussed in the following summary but are shown in the complete texts of the ordinance amendments that are attached as Attachment 3 (CLUDC), Attachment 6 (MLUDC), and Attachment 9 (Article II). Proposed deletions are shown by striking through the text and proposed additions are underlined.

To provide clarity regarding which regulations apply to the different types of ADUs, the amendments divide the regulations into the following three separate categories:

- **Category A:** The ADU is proposed to be developed on a lot that is zoned residential and contains an existing principal dwelling, and the ADU would be located entirely within an existing principal dwelling or existing accessory building.
- **Category B:** The ADU is proposed to be developed on a lot that is zoned residential and contains an existing principal dwelling, and, in order to accommodate the ADU, the project includes either additions to the principal dwelling or an existing accessory building, or the construction of a new accessory building that the ADU will be located within.
- **Category C:** The ADU is proposed to be developed on a lot that does not contain an existing principal dwelling and the ADU would be built concurrently with the principal dwelling, or the lot is not zoned residential.

2.1 Permit requirements.

Existing: A Coastal Development Permit or Land Use Permit is required for all ADUs unless:

- The application is for a detached ADU on a lot zoned Agriculture-I (AG-I) located in the Coastal Zone which requires the approval of a minor Conditional Use Permit, or
- The application is for an ADU on a lot zoned Naples Townsite (NTS) which requires the approval of a major Conditional Use Permit.

Proposed:

- Applications for ADUs that qualify under Category A and are located outside of the Coastal Zone would require the issuance of a Zoning Clearance in order to comply with Section 65852.2(e) which prohibits local jurisdictions from requiring an appealable zoning permit. Within the Coastal Zone a Coastal Development Permit would still be required since an ADU qualifies as development under the Coastal Act and is not exempt from the requirement to

obtain a Coastal Development Permit.

- Applications for ADUs that qualify under Category B would continue to require the issuance of either Coastal Development Permit or a Land Use Permit.
- Applications for all detached ADUs on lots zoned AG-I located in the Coastal Zone would continue to require the approval of a minor Conditional Use Permit.
- Applications for all ADUs on lots zoned NTS would continue to require the approval of a major Conditional Use Permit.

Additionally, in order to comply with Section 65852.2(b), applications for ADUs that qualify under Categories A and B must be acted upon within 120 days of receipt of an application. This does not include applications for ADUs on lots zoned either AG-I or NTS.

See Section 35.42.015.D.1 of the CLUDC amendment (Attachment 3, page 11), Section 35.442.015.D.1 of the MLUDC amendment (Attachment 6, page 6), and Section 35-142.4 of the Article II amendment (Attachment 9, page 5).

2.2 Lot area requirements.

Existing:

Attached ADU: An attached ADU may only be located on a lot that has a minimum area of 7,000 square feet (6,000 if lot was legally created before June 2, 1966).

Detached ADU:

Not located within the Montecito Community Plan area: A detached ADU may only be located on a lot that has a minimum area of 10,000 square feet.

Located within the Montecito Community Plan area: A detached ADU may only be located on a lot that has a minimum area of five acres.

Proposed: The proposed standards for ADUs that qualify under Category A or B do not include a minimum lot area requirement since Section 65852.2 does not include minimum lot area requirements in the allowable restrictions. The existing standards are proposed to be retained for ADUs that qualify under Category C.

2.3 Lot coverage limit.

Existing: The total gross floor area of all covered structures, including an ADU, shall not exceed 40 percent of the gross lot area.

Proposed:

Not located within the Montecito Community Plan area: The proposed standards for ADUs that qualify under Categories A or B do not include a maximum lot coverage limitation.

Located within the Montecito Community Plan area: The Montecito Planning Commission recommends that this standard be maintained for ADUs that qualify under Categories B or C on property located within the Montecito Community Plan area.

See Sections 35.442.015.F.8 and 35.442.G.8.b of the MLUDC amendment (Attachment 6, pages 11 and 16), and Sections 35-142.7 and 35-142.8 of the Article II amendment (Attachment 9, pages 13 and 15).

2.4 Floor area limits.

Existing: The floor area of an ADU is restricted based on the size of the lot as shown below:

Not located within the Montecito Community Plan area:

| Type of Accessory Dwelling Unit | Lot Area (unless specified = net lot area) | Maximum ADU Gross Floor Area |
|---------------------------------|--|------------------------------|
| Attached | 6,000 - 9,999 square feet | 600 square feet |
| | 10,000 - 19,999 square feet | 800 square feet |
| | 20,000 square feet or more | 1,200 square feet |
| Detached | 10,000 - 19,999 square feet | 800 square feet |
| | 20,000 square feet or more | 1,200 square feet |

Located within the Montecito Community Plan area:

| Type of Accessory Dwelling Unit | Lot Area (unless specified = net lot area) | Maximum ADU Gross Floor Area |
|---------------------------------|--|------------------------------|
| Attached | 6,000 - 9,999 square feet | 400 square feet |
| | 10,000 - 19,999 square feet | 600 square feet |
| | 20,000 square feet - 1 acre | 800 square feet |
| | Over 1 acre | 1,000 square feet |
| Detached | 5 acres or greater | 1,000 square feet |

Proposed:

Category A:

Attached ADU: The floor area of an attached ADU shall not exceed 50 percent of the living area of the principal dwelling existing at the time of application for the ADU; not to exceed 1,200 square feet.

Detached ADU: The floor area of a detached ADU shall not exceed 1,200 square feet.

These proposed floor area limits are in compliance with the restrictions of Section 65852.2(a)(1)(D)(iv) and (v).

Category B:

Not located within the Montecito Community Plan area: The living area of the ADU (attached and detached) shall not exceed eight percent of the net lot area of the lot that the ADU will be located; not to exceed 1,200 square feet.

Located within the Montecito Community Plan area: The living area of the ADU (attached and detached) shall not exceed the maximums shown in the table below for the applicable lot area:

| Lot Area (unless specified = net lot area) | Maximum Accessory Dwelling Unit Living Area |
|---|--|
| 0 - 9,999 square feet | 400 square feet |
| 10,000 - 19,999 square feet | 600 square feet |
| 20,000 square feet - 1 acre | 800 square feet |
| Over 1 acre to 2 acres | 1,000 square feet |
| Over 2 acres | 1,200 square feet |

Additionally, the living area of an attached ADU shall not exceed 50 percent of the living area of the principal dwelling that exists at the time of application for the accessory dwelling unit.

See Sections 35.42.015.F.4.a and 35.42.015.G.5.a of the CLUDC amendment (Attachment 3, pages 14 and 17), Sections 35.442.015.E.4.a and 35.442.015.F.7.a of the MLUDC amendment (Attachment 6, pages 7 and 11), and Sections 35-142.6.4.a and 35-142.7.6.a of the Article II amendment (Attachment 9, pages 6 and 10).

2.5 Setbacks.

Existing: The setbacks that apply to the principal dwelling also apply to the ADU.

Proposed: The following setback requirements are proposed in order to comply with Section 65852.2:

Category A: No increase in the existing setback is required for ADUs provided that the side and rear setbacks are sufficient for fire safety purposes. (Section 65852.2(e))

Category B: The setbacks that apply to the principal dwelling also apply to ADUs except that:

- No additional setback is required for a garage that is converted to an ADU. (Section 65852.2(a)(1)(D)(vii))
- A setback of no more than five feet from the side and rear lot lines may be required if the ADU is constructed above an existing garage. (Section 65852.2(a)(1)(D)(vii))

See Sections 35.42.015.F.10 and 35.42.015.G.11 of the CLUDC amendment (Attachment 3, pages 15 and 19), Sections 35.442.015.E.10 and 35.442.015.F.14 of the MLUDC amendment (Attachment 6, pages 9 and 13), and Sections 35-142.6.10 and 35-142.7.12 of the Article II amendment (Attachment 9, pages 8 and 12).

2.6 Parking requirements.

Existing: One additional parking space shall be provided for each bedroom in the ADU. The parking spaces may be allowed to be located in the side and rear setback areas if Director finds that due to the location of principal dwelling or lot topography the normal setback requirements cannot be met.

Proposed: Section 65852.2(a)(1)(D)(x)(I) allows local jurisdictions to require an additional space for each bedroom in the ADU; however, it also provides that additional parking is not required to be provided if any of the following circumstances apply: (Section 65852.2(d))

- The ADU would be developed entirely within an existing one-family dwelling or accessory structure on a single-family residentially zoned lot.
- The ADU is located within one-half mile of public transit (e.g., a bus stop).
- The ADU is located within an architecturally and historically significant historic district.
- When on-street parking permits are required but not offered to the occupant of the ADU.
- There is a car share vehicle located within one block of the ADU.

Based on the language of Section 65852.2, these exemptions apply to all applications for ADUs.

Section 65852.2 also provides that:

- The parking space may be provided as tandem parking on a driveway. (Section 65852.2(a)(1)(D)(x)(II))
- The parking space shall be allowed in setback areas in locations determined by the County unless specific findings are made that parking in setback areas is not feasible based on (1) site topography or (2) fire, life and safety conditions, or is not permitted elsewhere in the County. (Section 65852.2(a)(1)(D)(x)(II))
- When a garage, carport, or covered parking structure is converted or demolished in conjunction with the construction of an ADU, any replacement parking spaces required to satisfy the parking requirement for the principal dwelling may be provided in as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. (Section 65852.2(a)(1)(D)(xi))

The proposed amendments include the County and Montecito Planning Commission's recommendation that tandem parking not be allowed on lots located within very high fire hazard severity zone due to concerns that tandem parking may delay rapid evacuations during wildfire events. The proposed amendments to the CLUDC and Article II also include the County Planning Commission's recommendation that the following standards be included in order to regulate the use of mechanical automobile parking lifts:

- A mechanical parking lift shall:
 - Not be located on a driveway between the principal dwelling and any adjacent street.
 - Be located a sufficient distance away from any structures in order to comply with any fire clearance requirements.
 - Not be used to provide replacement parking spaces if the project site is located in a very high fire hazard severity zone.
 - Be rated for all-weather use unless located within a building.
 - Be located so that the lift and any vehicles parked thereon are screened from view from any public road or other area of public use (e.g., park, trail), or any adjoining lot.

See Sections 35.42.015.F.5 and 35.42.015.G.6 of the CLUDC amendment (Attachment 3, pages 14 and 17), Sections 35.442.015.E.5 and 35.442.015.F.9 of the MLUDC amendment (Attachment 6, pages 7 and 11), and Sections 35-142.6.5 and 35-142.7.7 of the Article II amendment (Attachment 9, pages 7 and 10).

2.7 Design review.

Existing: The proposed design of the ADU shall be reviewed and approved by the Chair of the applicable Board of Architectural Review (BAR), or designee.

Proposed:

Category A: Design review is not required.

Categories B and C:

Not located within the Montecito Community Plan area: The amendments propose to shift the responsibility from the Chair of the applicable BAR or designee to the Director of the Planning and Development Department. The amendments also propose to include the following new design standards that the Director would utilize in the review of the design of an ADU:

- If the ADU will be attached to an existing building, then the design of the ADU shall reflect the exterior appearance and architectural style of the existing building and use the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.
- If the ADU will not be attached to an existing building, then the design of the ADU shall reflect the exterior appearance and architectural style of the principal dwelling and use the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.
- The entrance to an ADU that will be attached to the principal dwelling shall be structurally shielded so that the entrance is not visible when viewed from any street abutting the lot on which the accessory dwelling unit is located. This standard may be waived by the Director if it would prohibit the construction of an attached accessory dwelling unit on the lot.
- All exterior lighting shall comply with the applicable outdoor lighting regulations that apply to the project site.
- The project shall include landscaping to screen the ADU, including any architectural elements such as foundations and retaining walls, mechanical equipment, and parking required to be provided for the ADU, from public viewing areas (e.g., public road, trails, recreation areas). Said landscaping shall be compatible with existing landscaping on the lot in terms of plant species and density of planting.

Located within the Montecito Community Plan area: As recommended by the Montecito Planning Commission, the proposed amendment would:

- Keep the responsibility for design review with the Chair of the Montecito BAR or designee, and
- Add the new design standards enumerated above.

See Sections 35.42.015.G.1 and 35.42.015.H.2 of the CLUDC amendment (Attachment 3, pages 15 and 20), Sections 35.442.015.F.1 and 35.442.015.G.2 of the MLUDC amendment

(Attachment 6, pages 9 and 14), and Sections 35-142.7.1 and 35-142.8.2 of the Article II amendment (Attachment 9, pages 8 and 13).

2.8 Owner-occupancy requirement.

Existing:

- The property owner is required to maintain, as their principal place of residence, either the principal dwelling or the ADU except when (1) a disability or infirmity requires institutionalization of the owner, or (2) the Director approves in writing the owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause.
- Upon the sale or transfer of the property, the new owner is also required to maintain, as their principal place of residence, either the principal dwelling or the ADU. If the new owner chooses not to live in either the principal dwelling or the ADU, then the ADU must either be converted to some other allowed accessory structure or removed.
- Prior to the approval or issuance of the applicable planning permit, the property owner shall sign and record a Notice to Property Owner that includes any specific conditions that apply to the permit (e.g., the requirement to reside on-site).

Proposed: The proposed amendments maintain these requirements for all categories of ADUs and also include the following new requirements:

- Prior to issuance of the permit the property owner shall have received a Homeowners' Property Tax Exemption from the County Assessor or have submitted to the Department a signed and notarized affidavit stipulating that the lot will be owner-occupied.
- If the principal dwelling and the ADU are constructed concurrently, then within 90 days of final building permit inspection for the principal dwelling, the owner shall have received a Homeowners' Property Tax Exemption from the County Assessor or have submitted to the Department a signed and notarized affidavit stipulating that the lot will be owner-occupied.
- If the lot is sold or transferred, then within 90 days of taking possession of the property the new owner shall either receive a Homeowners' Property Tax Exemption from the County Assessor or submit to the Department a signed and notarized affidavit stipulating that the lot will be owner-occupied.

See Sections 35.42.015.F.9, 35.42.015.G.10, and 35.42.015.H.13 of the CLUDC amendment (Attachment 3, pages 15, 18 and 23), Sections 35.442.015.E.9, 35.442.015.F.13, and 35.442.015.G.14 of the MLUDC amendment (Attachment 6, pages 8, 12 and 18), and Sections 35-142.6.9, 35-142.7.11, and 35-142.8.13 of the Article II amendment (Attachment 9, pages 7, 12 and 17).

2.9 Rental and minimum rental period.

Existing:

- An ADU may be rented.
- A minimum rental period is not specified.

Proposed:

- An ADU may be rented.
- The length of any rental shall be longer than 30 consecutive days.

This additional requirement is consistent with Government Code Section 65852.2(a)(6) and also implements one of the purposes of the State legislation that amended Government Code Section 65852.2 which is to facilitate the development of additional rental housing stock in order to meet current and future housing demand in California.

See Sections 35.42.015.F.8, 35.42.015.G.9, and 35.42.015.H.12 of the CLUDC amendment (Attachment 3, pages 14, 18 and 23), Sections 35.442.015.E.8, 35.442.015.F.12, and 35.442.015.G.13 of the MLUDC amendment (Attachment 6, pages 8, 12 and 18), and Sections 35-142.6.8, 35-142.7.10, and 35-142.8.12 of the Article II amendment (Attachment 9, pages 7, 11 and 17).

2.10 Tree protection.

Existing: No specific standards. However, other sections of the zoning ordinances that contain tree protection provisions would apply to an application for an ADU.

Proposed:

- All development associated with the accessory dwelling unit shall avoid the removal of or damage to all native trees including native oak trees, and specimen trees.
- No grading, paving, and other site disturbance shall occur within the dripline of the tree including the area six feet outside of tree driplines unless a licensed arborists determines that if any site disturbance is proposed within the dripline that the health of the tree would not be endangered. The allowance for site disturbance to occur within a drip line if a licensed arborist determines that the health of the tree would not be endangered was added by the County Planning Commission and, as proposed, does not apply within the Montecito Community Plan area.
- For the purposes of these standards specimen trees are defined as mature native trees that are healthy and structurally sound and have grown into the natural stature particular to the species.

See Sections 35.42.015.G.12 and 35.42.015.H.15 of the CLUDC amendment (Attachment 3, pages 19 and 24), Sections 35.442.015.F.16 and 35.442.015.G.17 of the MLUDC amendment (Attachment 6, pages 13 and 19), and Sections 35-142.7.13 and 35-142.8.15 of the Article II amendment (Attachment 9, pages 12 and 18).

2.11 Historic Landmarks Advisory Commission review.

Existing: No specific standards.

Proposed:

Not located within the Montecito Community Plan area: If the ADU is proposed to be located entirely or partially within a building that was constructed prior to 1960, then the ADU

application shall be submitted to the Historic Landmarks Advisory Commission for review and comment as to the compatibility of the proposed development with the historical context of the building, whether the development will result in a detrimental effect on any existing or potential historical significance of the building, and other factors that the Historic Landmarks Advisory Commission may choose to comment on.

Located within the Montecito Community Plan area: If the ADU is proposed to be located entirely or partially within a building that is 50 years old or greater, then the ADU application shall be submitted to the Historic Landmarks Advisory Commission for review and comment as to the compatibility of the proposed development with the historical context of the building, whether the development will result in a detrimental effect on any existing or potential historical significance of the building, and other factors that the Historic Landmarks Advisory Commission may choose to comment on.

See Sections 35.42.015.G.13 and 35.42.015.H.16 of the CLUDC amendment (Attachment 3, pages 19 and 24), Sections 35.442.015.F.5 and 35.442.015.G.6 of the MLUDC amendment (Attachment 6, pages 10 and 15), and Sections 35-142.7.14 and 35-142.8.16 of the Article II amendment (Attachment 9, pages 12 and 18).

3.0 Planning Commission Review. The ordinances attached to this Agenda Letter as Attachments 3, 6 and 9 reflect the recommendations of the County and Montecito Planning Commissions.

3.1 Montecito Planning Commission. The Montecito Planning Commission reviewed these amendments at their hearings on March 22, 2017, April 12, 2017, and May 17, 2017, and, by a vote of four to one, adopted Resolution No.17-05 (see Attachment 13) recommending that your Board adopt the proposed amendment to the Montecito Land Use and Development Code.

3.2 County Planning Commission. The County Planning Commission reviewed these amendments at their June 7, 2017 hearing, and, by a unanimous vote, adopted Resolution Nos.17 - 07 and 17-08 (Attachments 14 and 15) recommending that your Board adopt the proposed amendments to the County Land Use and Development Code and the Article II Coastal Zoning Ordinance.

4.0 Environmental Review.

The County and Montecito Planning Commissions recommended that your Board determine that the proposed projects are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15282(h), and additionally, for the amendment to the Coastal Zoning Ordinance, CEQA Guidelines Section 15265. Section 15282(h) provides that “The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code” is statutorily exempt from the CEQA. Section 15265, the 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. See attached Notices of Exemption (Attachments 2, 5 and 8).

5.0 Policy Consistency.

5.1 In general. The proposed amendments include a comprehensive set of development standards that the Planning and Development Department will utilize in the review of applications for ADUs. These standards, which will be applied ministerially as required by Section 65852.2, are

designed to ensure that the development of an ADU will be consistent with the policies and standards of the Comprehensive Plan or the Coastal Land Use Plan, and applicable Community Plans and Area Plans.

5.2 Mission Canyon Community Plan area. The Mission Canyon Community Plan includes the following policies that restrict the development of ADUs within Mission Canyon Community Plan area:

Policy LU-MC-2: The County shall recognize that the Mission Canyon Plan Area is a constrained community with respect to fire hazard, parking and circulation, flooding and drainage, wastewater and geology, and hillsides and topography and shall require that future development is adequately served by existing services and infrastructure.

Policy LU-MC-3: Residential second units shall be prohibited in the Mission Canyon Plan Area unless:

- The project application involves two contiguous legal lots under one-ownership, at least one of which is vacant;
- The owner has merged the two contiguous legal lots prior to issuance
- of the final building permit for the residential second unit; and
- The vacant lot is otherwise residentially developable.

Action LU-MC-3.1 of the Mission Canyon Community Plan requires that the CLUDC shall be amended upon Community Plan adoption to restrict residential second units in the Mission Canyon Plan Area. The proposed amendment to the CLUDC includes the existing development standards that implement these requirements. See Sections 35.42.015.E of the CLUDC amendment (Attachment 3, page 12). Inclusion of standards that implement the Mission Canyon Community Plan requirements is allowed in pursuant to Section 65852.2(a)(1)(A) which allows a local jurisdiction to designate areas where accessory dwelling units may or may not be allowed based on criteria that may include, but are not limited to, “the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.” In this instance, the County has determined that the permitting of ADUs within the Mission Canyon Community Plan area is appropriate only in very limited circumstances due to the constraints to development enumerated in Policy LU-MC-2 shown above.

6.0 Ordinance Compliance.

The proposed ordinances are consistent with the remaining portions of the CLUDC, the MLUDC, and Article II that would not be revised by these ordinances. In order to approve a development project based on these proposed amendments, it still must be determined that the project is consistent with the whole of the CLUDC, the MLUDC, and Article II as applicable, subject to the constraints of Government Code Section 65852.2(a)(5) which requires that “No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit.”

Fiscal Analysis:

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-287 of the adopted Planning and Development Department's

budget for fiscal years 2017 - 2018. There are no facilities impacts at this time. Any future facilities impacts would be addressed during the review of individual projects that may result from these ordinance amendments.

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 Noel Langle, Senior Planner.

Attachments:

- 1. 16ORD-00000-00014 County LUDC Findings
- 2. 16ORD-00000-00014 County LUDC Notice of Exemption
- 3. 16ORD-00000-00014 County LUDC Ordinance Amendment
- 4. 16ORD-00000-00015 Montecito LUDC Findings
- 5. 16ORD-00000-00015 Montecito LUDC Notice of Exemption
- 6. 16ORD-00000-00015 Montecito LUDC Ordinance Amendment
- 7. 16ORD-00000-00016 Article II CZO Findings
- 8. 16ORD-00000-00016 Article II CZO Notice of Exemption
- 9. 16ORD-00000-00016 Article II CZO Ordinance Amendment
- 10. Government Code Section 65852.2
- 11. December 2016 California Department of Housing and Community Development Accessory Dwelling Unit Memorandum (Revised January 2017)
- 12. 04-18-2017 California Coastal Commission Memorandum
- 13. Montecito Planning Commission Resolution No. 17 - 05
- 14. County Planning Commission Resolution No. 17 - 07
- 15. County Planning Commission Resolution No. 17 - 08
- 16. 05-31-2017 County Planning Commission Staff Report (w/o attachments)
- 17. 03-15-2017 Montecito Planning Commission Staff Report (w/o attachments)
- 18. 04-05-2017 Montecito Planning Commission Memorandum (w/o attachments)
- 19. 05-10-2017 Montecito Planning Commission Memorandum (w/o attachments)

Authored by:

Noel Langle, Senior Planner (805-568-2067)