

ATTACHMENT 5: ARTICLE II CZO CEQA NOTICE OF EXEMPTION

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Tess Harris, Planning & Development

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: Not applicable. **Case No.:** 18ORD-00000-00006

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

Project Title: Like-for-Like Rebuild (Debris Flow) Ordinance Amendment

Project Description: 18ORD-00000-00006 proposes to amend Division 1, In General, Division 2, Definitions, Division 10, Nonconforming Structures and Uses, and Division 12, Administration, to the Santa Barbara County Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, to implement new regulations and development standards regarding exemptions from permitting for structures that have been damaged or destroyed by a debris flow event or other natural event resulting in a significant change in topography or alteration of drainage features.

The proposed Ordinance Amendment provides specific standards for the like-for-like replacement or restoration of a structure that was damaged or destroyed as a result of a debris flow event or other event resulting in a significant change in topography or alteration of drainage features. The Amendment provides flexibility whereby a property owner can rebuild their structure(s) after such a catastrophic event, by specifying that the replaced or restored structure 1) may be relocated, as necessary, on the lot to meet creek setbacks; 2) may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot after a debris flow event; and 3) shall not require Design Review unless the exterior design of the structure is substantially different from the prior structure.

Name of Public Agency Approving and Carrying Out Project: County of Santa Barbara

Exempt Status:

- Ministerial
- Statutory Exemption (Section 15265)
- Categorical Exemption (Sections 15302 and 15305)
- Emergency Project
- No possibility of Significant Effect (Section 15061(b)(3))

CEQA Guideline Sections: 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.”

CEQA Guidelines Section 15302 [Replacement or Reconstruction] states that a project is exempt from CEQA if the activity consists of “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced[.]”

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 15265 [Adoption of Coastal Plans and Programs] states that CEQA does not apply to activities and approvals, pursuant to the California Coastal Act, by “any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program.” Section 15265 also states, “CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission” and that this exemption “shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission.”

Reasons to support exemption findings: The proposed Ordinance Amendment provides flexibility for rebuilding a structure that was damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features by allowing that the replaced or restored structure 1) may be relocated, as necessary, on the lot to meet creek setbacks; 2) may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot after a debris flow event; and 3) shall not require Design Review unless the exterior design of the structure is substantially different from the prior structure. Debris flow events, or other events that result in a change in topography or drainage features, can alter existing parcels, such that conditions on the site that direct development (e.g., setbacks from top-of-bank, site topography, hydrology, base flood elevation) have changed. As a result, the Ordinance Amendment clarifies that a De Minimis Coastal Development Permit Waiver may be allowed for a structure that is being rebuilt, and the structure may be modified beyond its previous configuration if necessary to meet applicable setbacks from top-of-bank and to reduce flood risk. The development would still be required to comply with the regulatory measures of the applicable zone, such as setback requirements, as well as applicable Comprehensive Plan and Community Plan policies.

To fall within the De Minimis Coastal Development Permit Waiver, very few changes would be allowed to be made to the relocated/rebuilt structure(s) besides relocating to a more resilient location on the same lot, if necessary to meet applicable setbacks from top-of-bank and to reduce flood risk. To fall within the waiver, the replaced or restored structure must be for the same use, not exceed the floor area or bulk of the destroyed structure by more than 10 percent, and comply with all requirements of the applicable zone. The waiver will not result in an increase in the number of structures and any change in lot

coverage would be negligible as discussed above. The design and specifications of exempt relocated/rebuilt structure(s) must be similar to the prior structure. If the design and specifications are substantially different from the prior structure, then the relocated/rebuilt structure(s) would be subject to design review. Therefore, there is no possibility this Ordinance Amendment would result in significant effects on the environment.

CEQA Guidelines Section 15302 is applicable because any relocated structures that replace damaged or destroyed structures must be located on the same lot and would be required to have substantially the same purpose as the structure replaced as discussed above. The capacity of the structures would be the same or a negligible increase of 10 percent.

CEQA Guidelines Section 15305 is applicable to the properties that utilize this exemption that have an average slope of less than 20% because the project does not result in any changes in land use or density. The use of the lot would remain the same and the density of development would not increase as discussed above. Structures that were damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features would merely be allowed to be relocated if certain requirements are satisfied.

State CEQA Guidelines Section 15265 shifts the burden of CEQA compliance from the local agency to the California Coastal Commission. As indicated in State CEQA Guidelines Section 15265, the Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5 of the Public Resources Code. Therefore, the California Coastal Commission will analyze CEQA compliance for the Ordinance Amendment, since the Amendment falls within the limits of the Coastal Commission's program of certifying local coastal programs.

There is no substantial evidence that the proposed project involves unusual circumstances, including future activities, resulting in or which might reasonably result in significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

- (a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

The requirement that exempt relocations comply with Development Standards and the Comprehensive Plan ensures that relocations would not be in a sensitive environment nor impact an environmental resource of hazardous or critical concern. Therefore this exception to the exemption would not apply.

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

It is not reasonably foreseeable to tell at this time how many properties will take advantage of this exemption, as the revised FEMA hazard mapping has not been completed and whether relocation is necessary depends on the specifics of each lot. However, the requirement that exempt relocations comply with Development Standards and the Comprehensive Plan ensures that impacts will not be significant. Additionally, the De Minimis Coastal Development Permit Waiver process will not result in an increase in the number of structures and any change in lot coverage would be negligible as discussed above. Therefore this exception to the exemption would not apply.

- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

To fall within the waiver process, very few changes would be allowed to be made to the relocated/rebuilt structure(s) besides changing in location to a more resilient location on the lot, if necessary to meet applicable setbacks from top-of-bank and to reduce flood risk. Therefore, reconstruction does not present any unusual circumstances. To fall within the waiver process, the replaced or restored structure must be for the same use, not exceed the floor area or bulk of the destroyed structure by more than 10 percent, and comply with all requirements of the applicable zone. The waiver process will not result in an increase in the number of structures and any change in lot coverage would be negligible as discussed above. The design and specifications of exempt relocated/rebuilt structure(s) must be similar to the prior structure. If the design and specifications are substantially different from the prior structure, then the relocated/rebuilt structure(s) would be subject to design review. The relocation and reconstruction of damaged or destroyed structures will not have a significant effect on the environment due to unusual circumstances. Therefore this exception to the exemption would not apply.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

It is not reasonably foreseeable that projects that use this De Minimis Coastal Development Permit Waiver will result in damage to scenic resources within a highway officially designated as a state scenic highway. Therefore this exception to the exemption would not apply.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

It is not reasonably foreseeable that projects that use this De Minimis Coastal Development Permit Waiver will be located on a site that is designated or listed as a hazardous waste site. Therefore this exception to the exemption would not apply.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

It is not reasonably foreseeable that projects that use this De Minimis Coastal Development Permit Waiver would cause a substantial adverse change in the significance of a historical resources because in order for a project to take advantage of this permit exemption, the structure must have been damaged or destroyed due to a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features. Therefore, the significance of any historical resource was likely already significantly damaged or destroyed by the debris flow or other catastrophic event. Therefore this exception to the exemption would not apply.

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May 3, 2018

Department/Division Representative

Date

Acceptance Date (date of final action on project): May 15, 2018

Date Filed by County Clerk: _____

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