

ATTACHMENT 2: Montecito LUDC CEQA NOTICE OF EXEMPTION

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Jeff Wilson, 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.:** 21ORD-00000-00007

Location: The proposed Ordinance Amendment would apply solely to the unincorporated area of Santa Barbara County located within the Montecito Community Plan Area not including the coastal zone.

Project Title: COVID-19 Temporary Ordinance Standard Suspension Ordinance Amendment

Project Description: 21ORD-00000-00007 proposes to amend Division 35.7, Montecito Planning Permit Procedures, and Division 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County MLUDC, of Chapter 35, Zoning, of the Santa Barbara County Code, to authorize extending the expiration of the temporary allowances from the Temporary Development Standard Suspension Ordinance to the earlier of June 30, 2023 or when the COVID-19 provisions are terminated by ordinance amendment and to make other amendments to support economic recovery.

This ordinance shall take effect and be in full force 30 days from the date of its passage and remain in effect and operative until the earlier of June 30, 2023 or when the provisions are terminated by ordinance amendment. The termination date of these temporary amendments could be extended or revised by the Board of Supervisors via future ordinance amendments.

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

Exempt Status:

- Ministerial
- Statutory Exemption
- Categorical Exemption (Sections 15301, 15303 and 15305)
- Emergency Project
- No possibility of Significant Effect (Section 15061(b)(3))

CEQA Guideline Sections:

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.”

Reasons to support exemption findings: The proposed Ordinance Amendment provides temporary relief from compliance with certain requirements of approved permits, legal non-conforming uses, and time extensions due to hardships related to COVID-19 and to make other amendments to support economic recovery due to the impacts of COVID-19. These amendments ensure that physical distancing and/or other public health requirements can be met necessary to limit the spread of COVID-19 while also allowing businesses and community entities to re-open and provide other forms of relief to support economic recovery from the impacts of COVID-19. The changes to the zoning code would not allow permanent structures to be constructed or erected and no native or environmentally sensitive habitat would be removed to accommodate the use of outdoor areas. Temporary changes to approved projects, non-conforming uses, and hardship time extensions consistent with the ordinance amendment would not require a planning permit if requirements related to the temporary suspension are satisfied. Alterations in land use limitations authorized under this Ordinance Amendment would be considered minor in nature, density of development would not increase, and any changes would be temporary. Any state or local permit or approval required by regulations other than the LUDC would be required to be obtained. Therefore, this Ordinance Amendment is consistent with CEQA Guidelines Sections 15301, 15303, and 15305. In addition, the project is subject to CEQA Guidelines Section 15061(b)(3) because the activity of amending the LUDC has no possibility of having a significant effect on the environment. Therefore, there is no possibility this Ordinance Amendment would result in significant effects on the environment.

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.**

This ordinance amendment applies to approved development and would require submittal of a checklist, site plan, and narrative of the proposed activities to Planning and Development. Review of site plans would confirm and ensure that proposed temporary changes to approved projects 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.**

This Ordinance Amendment would only be made available to non-residential projects and does not allow the construction or erection of new permanent structures. As indicated in the Montecito Planning Commission staff report, dated July 28, 2021, Attachment 14 to the Board Letter dated August 31, 2021 and incorporated herein by reference, the ordinance amendment is consistent with the Comprehensive Plan. The temporary nature of the ordinance ensures that impacts will not be significant. Additionally, the exemption will not result in an increase in the number of structures, does not allow the construction or erection of new permanent structures, and any change in lot coverage would be temporary 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.**

The ordinance amendment would extend the time wherein development standards are temporarily suspended to protect public health, support the re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19, and to provide other forms of relief to support economic recovery from the impacts of COVID-19. The ordinance amendment will authorize, for approved projects and legal non-conforming uses, the temporary suspension of compliance with project descriptions and/or conditions of approval that implement 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, or other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19 and/or to support economic recovery from the impacts of COVID-19. The amendments require projects to obtain encroachment or other applicable County permits, apply only to non-residential projects, and does not allow the construction or erection of new permanent structures.

The extensions of the temporary suspension of development standards 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 temporary development standard suspension will result in damage to scenic resources within a highway officially designated as a state scenic highway because the ordinance amendment does not allow the construction or erection of new permanent structures. 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 temporary development standard suspension 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.

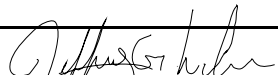
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

It is not reasonably foreseeable that projects that use this temporary development standard suspension would cause a substantial adverse change in the significance of historical resources because the ordinance amendment only authorizes the temporary suspension of compliance with conditions of approval and standards that implement 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; and other development standards determined to be applicable by the Director for the protection of public health due to COVID-19 and/or to support economic recovery from the impacts of COVID-19.

The ordinance amendment requires projects to obtain any necessary encroachment or other applicable County permits, applies only to non-residential projects but excludes the cultivation of cannabis projects, and does not allow the construction or erection of new permanent structures. Therefore, the significance of any historical resource would not result in a substantial adverse change, and this exception to the exemption would not apply.

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Department/Division Representative  Date 8/16/2021

Acceptance Date (date of final action on project): September 14, 2021

Date Filed by County Clerk: _____

Distribution: Hearing Support Staff and Case File: 21ORD-00000-00007