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Prepared August 28, 2008 (for September 11, 2008 hearing)

To: Commissioners and Interested Persons

From: Charles Lester, Senior Deputy Director
Ruby Pap, North Central Coast District Supervisor
Doug Macmillan, North Central Coast District Program Analyst

Subject: **Sonoma County LCP Major Amendment Number 1-06 (Second Units).** Proposed major amendment to the Implementation Plan of the County of Sonoma certified Local Coastal Program to be presented for public hearing and California Coastal Commission action at the Commission's September 11, 2008 meeting to take place at the Wharfinger Building, 1 Marina Way, in Eureka.

Executive Summary

Sonoma County proposes to amend Chapter 26C (Coastal Zoning Ordinance) of the Sonoma County LCP to revise procedures and standards for second dwelling units, add provisions for homeless shelters in urban zoning districts, specify minimum residential densities, and remove restrictions on Type A and C density bonus projects located within 1/4 mile of a similar project. At its October 2007 meeting, the Commission extended the 60-day time limit to act on the amendment from October 14, 2007 to October 14, 2008.

The amendment responds to AB 1866, which amended Government Code Section 65852.2 to change the process for the review of second unit applications in single family and multi-family residential zones. Most significantly, AB 1866 requires that second unit applications received after July 1, 2003 be considered by local governments "ministerially without discretionary review or a hearing." However, AB 1866 does not change the substantive standards that apply to coastal development permits for second units. In addition, the restriction on public hearings does not extend to the Coastal Commission. Other components of the amendment implement General Plan Housing Element policies to promote affordable and special needs housing, and adopt procedures for persons with disabilities to request "Reasonable Accommodations" in the application of land use policies.

As submitted, the amendment is not consistent with various policies of the certified Land Use Plan, which is the standard of review. Most significantly, the LCP should continue to assure that second units are potentially appealable to the Coastal Commission so that potential resource impacts of statewide importance, including agriculture, visual resources, and water resources, remain subject to the higher scrutiny of review currently provided by the LCP. If approved with modifications to assure protection of coastal resources, while still meeting the streamlining objectives of AB 1866 at the local level, staff recommends that the Commission approve the proposed LCP amendment as consistent with and adequate to carry out the LUP.

Staff Report Contents

I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment with suggested modifications. The Commission needs to make 2 motions in order to act on this recommendation.

1. Denial of Implementation Plan Major Amendment Number 1-06 as Submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (1 of 2). I move that the Commission **reject** Major Amendment Number 1-06 to the County of Sonoma Local Coastal Program Implementation Plan as submitted.

Resolution to Deny. The Commission hereby **denies** certification of Major Amendment Number 1-06 to the County of Sonoma Local Coastal Program Implementation Plan as submitted by the County of Sonoma and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

2. Approval of Implementation Plan Major Amendment Number 1-06 if Modified

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 2). I move that the Commission **certify** Major Amendment Number 1-06 to the County of Sonoma Local Coastal Program Implementation Plan if it is modified as suggested in this staff report.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Major Amendment Number 1-06 to the County of Sonoma Local Coastal Program Implementation Plan if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed implementation plan amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the County of Sonoma, by formal resolution of the Board of Supervisors, accepts the suggested modification within six months of Commission action (i.e., by March 12, 2009) the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. The County's proposed language is denoted in underline. Where applicable, text in **bold double underline** format denotes text to be added and text in ~~**bold strikethrough**~~ denotes text to be deleted.

1. Modify Exhibit B of the County's proposal, "Amendments to Agricultural and Rural Residential Zone Districts" such that Second Units in Agricultural Districts remain conditionally permitted uses, as follows:

A. Revise the following proposed language in the "Permitted Uses" category for IP Coastal Zoning Ordinance Sections 26C-40(DA), 26C-50(RRD), 26C-80(AR) and 26C-90(RR) only:

"One (1) Second Dwelling Unit per lot, pursuant to **Section 26C-325.1**, provided that the water supply for the Second Dwelling Unit is proposed to be located within a designated Class 1**or** 2 Groundwater Availability Area. Second units may be established within designated Class **3 water-scarce areas only where the domestic water source is located on the subject parcel, or a mutual water source is available; and groundwater yield is sufficient for the existing and proposed use, pursuant to Section 7-12 of the Sonoma County Code. Second units may be established within designated Class** 4 water-scarce areas only where a hydro-geotechnical report, as defined, certifies that the establishment and continuation of the secondary residential use will not have significant adverse impacts on local groundwater availability or yield." **Approval of any such second dwelling unit is appealable to the Commission pursuant to Coastal Act section 30603.**

B. Undelete portions of and retain portions of the existing language in the "Uses Permitted with a Use Permit" category of IP Coastal Zoning Ordinance Sections 26C-21(LIA) and 26C-31(LEA).

~~One (1) second dwelling unit per lot provided that the procedures and all criteria of Section 26-88-060 are met.~~ **One (1) second dwelling unit per lot provided that the procedures and all criteria of Section 26C-325.1 are met. Second units may be established within designated Class 3 water-scarce areas only where the domestic water source is located on the subject parcel, or a mutual water source is available; and groundwater yield is sufficient for the existing and proposed use, pursuant to Section 7-12 of the Sonoma County Code. Second units may be established within designated Class 4 water-scarce areas only where a hydro-geotechnical report, as defined, certifies that the establishment and continuation of the secondary residential use will not have significant adverse impacts on local groundwater availability or yield. Approval of any such second dwelling unit is appealable to the Commission pursuant to Coastal Act section 30603.** ~~The procedures include provisions for waiver of the use permit unless a protest of such waiver is received by the planning department. The criteria include, but are not limited to maximum size limitations, maximum separation between primary dwelling units and second dwelling units, setbacks and yard requirements; (Ord. No. 3511.)~~

2. Modify Exhibit E of the County's proposal add the following language to proposed IP Coastal Zoning Ordinance Section 26C-325.1(C) (Second Dwelling Units Permit Requirements):

C. Permit Requirements. A Zoning Permit (Section 26-92-170 and 26C-330-zoning/coastal permit) shall be required for a Second Dwelling Unit **in all Zoning Districts. A Use Permit shall also be required for a Second Dwelling Unit in LIA and LEA Zoning Districts.** Additionally, Second Dwelling Units must comply with all other applicable Building Codes and requirements, including evidence of adequate septic capacity and water yield. Any approval of any second unit development must be supported by findings demonstrating consistency of the second unit development with Sections 26-99-060 and 26C-325.1, including but not limited to Subsections I(7) through I(12).

3. Modify Exhibit E of the County's proposal to add the following language to proposed IP Coastal Zoning Ordinance Section 26C-325.1(G) (Second Dwelling Units Density):

G. Density. As provide by Government Code Section 65852.2(b)(5), Second Dwelling Units in **DA, RRD, AR, RR, R1, and R2 Zoning Districts** are exempt from the density limitations of the General Plan**~~., provided that no more than one Second Dwelling Unit may be located on any parcel.~~ In all applicable zoning districts, no more than one Second Dwelling Unit may be located on any parcel and** a Second Dwelling unit may not be located on any parcel already containing a non-conforming dwelling with respect to land use or density, or developed with a duplex, triplex, apartment or condominium.

4. Modify Exhibit E of the County's proposal to add the following language to proposed IP Coastal Zoning Ordinance Section 26C-325.1(I) (Second Dwelling Units Design and Development Standards):

7. Conformance with certified LCP. All new secondary dwelling development when combined with all existing site development shall together conform to all applicable requirements of the Coastal Plan, Administrative Manual and Coastal Zoning Ordinance.
8. Public Access. Second residential units shall not obstruct public access to and along the coast, or public trails.
9. Visual Resources. Second residential units shall not significantly obstruct public views from any public road, trail, or public recreation area to, and along the coast.
10. Environmentally Sensitive Habitat Areas and Wetlands. All development associated with second residential units shall be located no closer than 100 feet

from the outer edge of an environmentally sensitive habitat area or the average setback of existing development immediately adjacent as determined by the "string line method."
11. Agricultural Lands. All development associated with second residential units shall be prohibited on prime agricultural soils and where there are no prime soils be sited so as to minimize impacts to ongoing agriculturally-related activities.
12. Second residential units shall not be approved absent a finding of adequate water supply and wastewater treatment.

5. In Exhibit G of the County's proposal, "Requests for Reasonable Accommodation Under Fair Housing Acts," add the following language to and delete portions of proposed IP Coastal Zoning Ordinance Section 26C-39.3(a) (Finding and Decision):

(4) Whether the requested reasonable accommodation would be consistent **with all applicable provisions of the certified LCP. ~~the General Plan Land Use designation of the property which is the subject of the reasonable accommodation request, and with the general purpose and intent in the applicable Zoning District.~~**

6. Modify the following language in existing IP Coastal Zoning Ordinance Section 26C-2 (Principal Permitted Uses):

(c) ". . . additional dwellings beyond one single-family dwelling on parcels zone LIA, LEA, DA, RRD, RRDWA, and TP, AR, **~~RR, R1, and R2~~** are not considered to be Principal Permitted Uses **and are appealable to the California Coastal Commission pursuant to section 30603 of the Coastal Act**."

III. Findings and Declarations

The Commission finds and declares as follows:

A. Proposed LCP Amendment

1. Government Code (and AB 1866) Second Unit Requirement Background

Signed by former Governor Davis on September 29, 2002, AB 1866 added three new provisions to Section 65852.2 of the Government Code that are particularly significant for the purposes of reviewing proposed second units in single family and multi-family residential zones within the coastal zone. Section 65852.2 now:

1) Requires local governments that adopt second unit ordinances to consider second unit applications received on or after July 1, 2003 "ministerially without discretionary review

or a hearing." (Government Code Section 65852.2(a)(3))

2) Requires local governments that have not adopted second unit ordinances to "approve or disapprove the [second unit] application ministerially without discretionary review." (Government Code Section 65852.2(b)(1))

3) Specifies that "nothing in [Section 65852.2] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act ... except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j))

Thus, Section 65852.2 significantly affects one component of local government procedures regarding coastal development permits for second units in residential zones (public hearings), but does not change the substantive standards that apply to coastal development permits for such second units.

Pursuant to Section 65852.2, local governments can generally no longer hold public hearings regarding second units in residential zones. This prohibition applies both to initial local review and any subsequent local appeals that may be allowed by the LCP. The restriction on local public hearings, however, does not apply to the Coastal Commission itself. The Commission can continue to conduct public hearings on proposed second units located in areas where the Commission retains permitting jurisdiction, and when locally approved coastal development permits are appealed to the Commission.

Section 65852.2 does not affect any other procedures nor the development standards that apply to second units in residential zones located within the coastal zone. Rather, it clarifies that all requirements of the Coastal Act apply to second units, aside from requirements to conduct public hearings. Thus, for example, public notice must be provided when second unit applications are filed and members of the public must be given an opportunity to submit comments regarding the proposed development. When a second unit application is appealable, local governments must still file a final local action notice with the Commission and inform interested persons of the procedures for appealing the final local action to the Commission. In addition, all development standards specified in the certified LCP and, where applicable, Chapter 3 of the Coastal Act, apply to such second units.

2. Description of Proposed LCP Amendment

On December 26, 2006, the Sonoma County Board of Supervisors adopted Resolution No. 06-1065 to amend Chapter 26C (coastal zoning ordinance) of the Sonoma County Code to implement fair housing laws, to establish revised procedures and standards for second dwelling units in both residential and agricultural zone districts, to add provisions for homeless shelters in urban zoning districts, and to specify minimum residential densities. Adoption of the

amendment was necessary, in part, to bring the county into conformance with AB 1866 and state and federal Fair Housing Acts.

1. Amendments to Zoning Ordinance Definitions. The proposed amendment would make changes to Section 26C-12 of Chapter 26C of the Sonoma County Code to add the definitions of "Efficiency Dwelling Unit," "Emergency Homeless Shelter," and "Small-scale Homeless Shelter," to modify the definition of "Guest House," to delete the definition of "Family," and replace the existing definition of "Dwelling Unit, Second".

2. Amendments to Agricultural and Rural Zone Districts. Sections 26C, 20 and 21 (LIA-Land Intensive Agriculture), 26C, 30 and 31 (LEA-Land Extensive Agriculture), 26C, 40 and 41 (DA-Diverse Agriculture), 26C, 50 and 51 (RRD-Resources and Rural Development), 26C, 60 and 61 (RRDWA-Resources and Rural Development (Agricultural Preserve)), 26C, 80 and 81 (AR-Agricultural and Residential), 26-C, 90 and 91 (RR-Rural Residential) of Chapter 26C of the Sonoma County Code would be amended as follows:
(a) In the LIA, LEA, DA, RRD, AR, RR Zone Districts, amendments would be made to add Second Dwelling Units as a principally permitted use rather than a conditionally permitted use, in conformance with Section 26C-325.1 (Second Dwelling Units) on parcels with a gross area of not less than 2.00 acres
1) without restriction where the water source for the unit is within a Class I or Class II Groundwater Availability Area;
2) subject to the Sonoma County Building Code Section 7.12 water yield test if located within a Class 3 Groundwater Availability Area; and,
3) subject to the water yield test, and the requirement that the water source be located on the same parcel as the proposed second unit, when the water source for the proposed unit is located within a Class 4 water-scarce area.

   Additionally, all applications for Second Dwelling Units on parcels within a Class 4 water-scarce area shall be accompanied by a hydro-geological report prepared by a licensed professional, which report provides specified data and analysis, including a finding that the establishment and continuation of the proposed use will not have significant adverse impacts on local groundwater availability or yield.

3. Amendments to Urban Residential Districts. Sections 26C-100 (R1-Low Density Residential), and 26C-110 (R2-Medium Density Residential) of Chapter 26C of the Sonoma County Code would be amended as follows:
(a) In the R1 and R2 Zone Districts, amendments would be made to allow Second Dwelling Units as a principally permitted use rather than a conditionally permitted use.
(b) In the R1 Zone District, amendments would be made to allow guest houses as a principally permitted use, and to delete guest houses from the list of conditionally permitted uses.

(c) In the R1 and R2 Zone Districts, amendments would be made to add small-scale homeless shelters serving up to 10 persons as a conditionally permitted use subject to a minor use permit.
(d) In the R1 Zone District, an amendment would be made to clarify minimum residential density requirements for new developments.

4. Amendments to Urban Commercial and Industrial Districts. Sections 26C-150 (C2-Community Commercial) of Chapter 26C of the Sonoma County Code would be amended as follows:
(a) In the C2 Zone District, amendments would allow small-scale homeless shelters serving up to 10 persons with a use permit, subject to design review.
(b) In the C2 Zone District, amendments would allow emergency shelters with up to 50 beds, subject to the granting of a use permit and design review.

5. Second Dwelling Units. Section 26C-325.1 (Second Dwelling Units) would be amended to replace the existing Second Dwelling Unit section in its entirety to implement the requirements of Government Code Section 65852.2, and includes permit requirements, exemptions from density limitations, site requirements (including water availability and minimum parcel size), and design and development standards.

6. Removal of Quarter-Mile Restriction from Housing Opportunity Areas. Section 26C-326.2 (Housing Opportunity Areas) of Chapter 26C of the Sonoma County Code would be amended to delete the provision requiring a use permit for projects located within one quarter-mile of a similar project.
7. Reasonable Accommodations**.** A new Article 39 (Requests for Reasonable Accommodation Under the Fair Housing Acts) would be added to Chapter 26C of the Sonoma County Code.

See Exhibit A for the Sonoma County Board of Supervisors ordinance and text of the proposed amendment. See Exhibit B for Existing Certified Second Dwelling Unit Ordinance, and Exhibit C for Sonoma County Building Code Section 7-12 Building permits in water scarce areas and second dwelling units in marginal water areas. See attached 2003 Memo to City and County Planning Directors from Peter Douglas re: Coastal Development Permit procedures for second units.

3. Effect of Proposed Amendment

Applications for secondary dwelling units, up to a maximum of 1,000 square feet in size, would be processed ministerially without public hearings. The proposed changes would potentially make it easier and quicker for applicants to gain approvals for second units in both residential and agricultural zones. The amendment also implements provisions and requirements of the Federal and State Fair Housing Acts by including a procedure for persons with disabilities to

request “Reasonable Accommodations" in the application of land use controls, regulations and policies.

B. Consistency Analysis

1. Standard of Review

The standard of review for proposed modifications to the County’s IP is that they must conform with and be adequate to carry out the policies of the Land Use Plan (LUP). In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning) standards then typically further refine LUP policies to provide guidance on a parcel-by-parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified Land Use Plan (LUP).

2. LUP Consistency Requirement

In order to approve an Implementation Plan amendment, it must conform with and be adequate to carry out the Land Use Plan. The County’s LUP protects agricultural resources, environmentally sensitive habitats, public access, visual and community character, and requires demonstration of adequate sewer and water capacity to serve proposed development. It also distinguishes between urban and rural development, and directs development to developed areas best able to accommodate it. Overall, these LUP requirements implement fundamental goals of the Coastal Act.

3. Analysis

The proposed IP amendment is mostly straight-forward and narrowly focused in response to recent state law requirements. However, as proposed by the County, second units would no longer be conditional uses in certain zones but rather, principally-permitted. Thus, second units approved by the County would not be automatically appealable to the Commission pursuant to Coastal Act Section 30603(a)(4). Because second units have the potential to raise several significant cumulative as well as individual coastal resource issues such as impacts to visual resources, environmentally sensitive habitat areas, agricultural resources, and public services as discussed further below, the Commission finds that it is important to reserve both the County’s discretion with respect to second units in agricultural areas, which are not subject to AB 1866, and the Commission’s ability to appeal any such second unit approved by the County that raises a potential issue of conformance with the certified LCP. The Commission therefore attaches Suggested Modification No. 6. In so doing, both the requirements of the Coastal Act and AB 1866 may be met.

Agriculture

The Sonoma County LUP contains strong policies to protect coastal agriculture consistent with Coastal Act sections 30241 and 30242. The LUP includes restrictive minimum parcel sizes and residential density limitations that are "intended to approximate and perpetuate the existing ranch character of much of the coast."[1] These include a maximum number of four residential units per parcel, with a minimum parcel size of 40 or 160 acres, depending on the use (e.g. dairy or grazing).

In terms of residential uses, the LUP currently allows for a single residential dwelling on a vacant agricultural parcel if other conditions are met (for example, only east of Highway 1, not in a sensitive viewshed). It also allows additional single family dwellings, second dwelling units, farm family units, and farm worker housing.[2] However, the land use policies that apply to such residential uses in agricultural zones include the following:[3]

> 1. *Encourage compatible, resource-related uses on designated resource lands.* ***Such uses should not conflict with resource production activities****. Residential . . . uses should be located in existing communities or commercial centers as shown on the Land Use Plan ….*
> 2. *Allow up to four residential units per resource parcel, consistent with the maximum residential density,* ***for the purpose of housing family members and employees.*** *All housing units should be clustered in relation to environmental features and the management conditions of the ranch.*
>
> *…*
>
> 4. ***Establish resource compatibility and continued productivity as primary considerations in parcel design and development siting****. Implement General Plan Policies AR-4c and AR-4d to establish Agricultural setbacks and apply the provision of the 'Right to Farm' ordinance.*
>
> *…*
>
> [emphasis added]

Further, as described in the Land Use chapter of the LUP, "residential and other land uses must relate to resource production."[4]

The intent of the land use plan is to assure that the primary use of agricultural lands maintains the maximum amount of coastal agriculture available for or in production. Residential development must be subordinate to agricultural production. Where it is allowed, it must be for the purpose of housing family members (associated with the primary residential use associated with the agricultural parcel) or for farm labor housing. Additional residences must

[1] Sonoma County LUP, p. 43.
[2] *Id*. p. 50.
[3] *Id*. p. 53-5.
[4] *Id*. p. 182.

also be clustered to protect agricultural land uses, and use setbacks, buffers and right to farm restrictions to further assure protection of agriculture.

To implement the LUP, the certified IP specifies various strict requirements for additional residential uses in each of the agricultural zones. For example, in the LEA District (Land Extensive Agriculture), one detached "farm family unit" may be allowed provided that an agricultural easement is recorded. Most important, in each of the agricultural districts additional residential units beyond one single-family dwelling are conditional uses and thus subject to the higher standards of scrutiny defined by Coastal Act section 30603 specifying the Commission's appeal jurisdiction.[5]

The County's LUP thus includes clear provisions for the protection of agricultural land and minimizing conflicts between agricultural and urban land uses by, in part, limiting the conversion of agricultural land for non-agricultural uses and by assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability. Lands zoned LIA and LEA are specifically reserved for long-term productive agricultural use, namely the production of food, fiber, or plants. The Commission finds that the development of uses not central to agricultural use on LIA and LEA lands, such as residential development, raise significant issues with regard to the potential to impair the agricultural viability of the land in a manner inconsistent with the intent of the zoning designation and the protection of agricultural resources provided in the certified LUP. Therefore, the proposed implementation plan amendment, which allows second units on agricultural lands zoned LIA and LEA as a principally permitted use, would not conform with or carry out the certified LUP and must be denied as submitted. The Commission finds that it is important to reserve both the County discretionary ability to review, and the Commission's ability to appeal, any second unit approved by the County on LIA and LEA lands because it raises a potential issue of conformance with the policies in the certified LCP regarding the protection of agricultural lands. Therefore the Commission attaches Suggested Modification Number 1. As modified, second units will only be conditionally allowed on agricultural lands zoned LIA and LEA in a manner consistent with the agricultural policies of the certified LUP

The proposed implementation plan changes would also allow second units as principally permitted uses in RRD, DA and AR Agricultural Zone Districts. In contrast to LIA and LEA agricultural zoning districts, RRD, DA and AR zoning districts allow for both agricultural and residential uses. Nonetheless, siting a residential second unit within an area that is used agriculturally could adversely affect agricultural productivity, inconsistent with sections of the LUP that implement Coastal Act policies 30241 and 30242. Therefore, the proposed Implementation Plan amendment would not conform with or carry out the certified LUP and

[5] This is clearly specified in both the IP overview section 26C-2(c) and the IP sections corresponding to the Agricultural districts, except for the AR district, which is only listed in 26C-2(c) (". . . additional dwellings beyond one single-family dwelling on parcels zone LIA, LEA, DA, RRD, RRDWA, and TP, AR, RR, R1, and R2 are not considered to be Principal Permitted Uses." For purposes of this amendment, the Commission assumes that the 26C-2(c) states the existing requirement, notwithstanding the absent language in the AR district (IP 26C-80).

must be denied. However, the Commission finds that the amendment could be modified to conform with the LUP. Therefore, the Commission attaches Suggested Modification 4 to add additional development standards to the proposed residential second unit provisions of the zoning ordinance to protect agricultural productivity, as well as environmentally sensitive habitat, visual resources and public access, which are also potentially impacted in these zones. The suggested modification would prohibit all development associated with second residential units from encroaching onto prime agricultural soils and where there are not prime soils be sited so as to minimize impacts to ongoing agriculturally related activities. In addition, the Commission attaches Suggested Modification 2 to make it clear that all residential second units must conform to these standards to be permitted.

Finally, the commission attaches Suggested Modifications 1 and 6 to clarify and reconfirm that the approval of second units in any zones, whether as a permitted or conditionally permitted use, is appealable to the commission pursuant to Section 30603 of the Coastal Act. The ability to appeal coastal permits granted for second units to the Commission affords significant protection for agricultural, visual, new development, public access, and wetland and environmentally sensitive habitat area resources consistent with the provisions of the LUP that implement the Coastal Act sections 30210-30212, 30240, 30241, 30242, 30250, and 30251.

Public Services

A major goal of the LCP's Development section on Public Services is the provision of basic public works, especially water resources and sewage disposal. The LCP states that housing production should be concentrated in areas where public sewer and water service is available (Recommendation #10, Section VII-15). Where such services are limited, priority must be given to coastal dependent land uses.

The LCP also states that Public Works capacities should only be expanded to accommodate development identified in the coastal plan (Recommendation #1, Section VII-30), and that within urban services areas, new development be connected to available services (Recommendation #10, Section VII-31).

The Coastal Zone in Sonoma County lies almost entirely within areas of scarce water resources. The LCP acknowledges this and Sonoma County has an officially adopted groundwater availability classification map that encompasses both rural and urban areas (i.e. Bodega Bay), although Bodega Bay is served by a municipal utility district (see below). Almost all coastal zone parcels are in Class 3 and 4 areas and thus require testing before permitting of second units. Because approval of some second units in specified zones would be considered "principally permitted," and use permits would no longer be required under the proposed amendment, the proposed amendment specifies clear ministerial standards for all units in water-scarce areas with objective criteria for approval or denial. No building permits for new or replacement second units would be issued in these areas unless a formal hydro-geological report verifies that the parcel meets current Building Code standards (see Exhibit C).

In addition, as specified above, the proposed implementation plan has been modified to allow second units as principally permitted uses only in specified zones. As modified, second units in LIA and LAE agricultural zones will remain conditionally permitted uses and require water yield testing before permitting of second units in these agricultural zones. Zones whose primary purpose is agriculture, a higher priority use under the LUP and the Coastal Act, will thereby not allow conversion of agricultural land to a residential use as a matter of right and approval of second units on agriculturally zoned land will remain appealable to the Commission. In this way, the Commission ensures that water necessary to sustain agriculture in agricultural zones will not be diverted to lesser priority residential uses.

Urban Districts

The Bodega Bay urban services area is served by the Bodega Bay Public Utility District (BBPUD) with connections for drinking water and sewage outflow. The background section of the LUP Chapter VII states that the BBPUD has adequate water supply for existing development but not enough for full buildout. BBPUD states that there are currently 125 remaining connections in their urban services area before the system reaches its maximum capacity, affectively limiting the number of second units that could potentially be built, unless new water sources are developed.

The proposal would potentially increase the number of second units in urban areas by allowing second units on parcels that have a gross lot area of between 5,000 and 6,000 sq. ft. if they have both public sewer and water service, and only with a 30-year affordable housing agreement. The change could potentially increase the number of allowable second units by approximately 132, which is beyond the current capacity of BBPUD. However, with modification 4, which requires an additional ministerial finding of adequate water supply to approve a second unit, adequate water supplies will be assured. Further, existing LUP policy VII-31 requires new development to be served with water and sewer service, so if there is no water available at the time of consideration, the unit could not be approved. If a water services connection was not available, a property owner could theoretically seek to develop a well, but there are existing strict standards on groundwater extractions in the currently certified LUP and in the proposed second unit ordinance, ensuring that second units are developed only in areas with adequate services. Any new wells in the urban area would require yield tests and would be subject to the current and amended standards.[6] Therefore, the Commission finds that there are adequate water and sewer services to serve the proposed amendment as it pertains to second units in the Bodega Bay area, consistent with LUP Policies VII-15 and VII-30 & 31.

Rural Districts

[6] In practice, proposals for wells in the urban area would be unlikely to provide water at sufficient yield or quality to receive a zoning permit, and would be prohibitively expensive on an urban parcel as it would require an evaluation of the entire water basin in which the well would be drilled. Furthermore few owners are likely to pursue a private well for a second unit of a maximum of 1,000 square feet.

The proposed amendment would allow second units on parcels between 1.5 and 2.0 acres in Class 1 and 2 Groundwater Availability Areas with a 30-year affordable housing agreement. This could theoretically increase the number of units allowed in these areas by approximately 146. The change only applies to Class 1 and 2 groundwater availability areas, which are not considered to be as water scarce. Most of the coastal zone is in water areas 3 and 4, so in practice very few additional second units would be allowed as they are only allowed in groundwater areas 1 and 2.

Further, the proposed amended second dwelling unit ordinances includes specific, stringent requirements for groundwater yield testing in Class 3 and 4 water-scarce areas before any new second units could be permitted, ensuring that second units are developed only in areas with adequate water, consistent with the LUP. The proposed amendment specifies clear ministerial standards for all units in water-scarce areas with objective criteria for approval or denial. No building permits for new or replacement second units would be issued in these areas unless a formal hydro-geological report verifies that the parcel meets current Building Code standards (see Exhibits A and C). Therefore, the Commission finds that there are adequate water and septic system controls to serve the proposed amendment as it pertains to second units in the rural zoning districts, consistent with LUP Policies VII-14 & 31.

Development Standards

The proposed implementation plan amendment would allow second units in both residential and agricultural zones without regard to the otherwise applicable density limitations of the certified LCP. Construction of a second unit on a site inherently intensifies the use of a subject parcel. The County's LUP includes provisions for the protection of agricultural land and minimizing conflicts between agricultural and urban land uses by, in part, limiting the conversion of agricultural land for non-agricultural uses and by assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability. Lands zoned LIA and LEA are specifically reserved for long-term productive agricultural use, namely the production of food, fiber, or plants. The Commission finds that the exceptions to density limitations on LIA and LEA lands, such as residential development, raise significant issues with regard to the potential to impair the agricultural viability of the land in a manner inconsistent with the provisions of the certified LUP which implement 30250, 30241 and 30242 and provide for the protection of agricultural and public service resources. Therefore, the proposed implementation plan amendment, which allows second units on agricultural lands zoned LIA and LEA without regard to the otherwise applicable density limitations of the certified LCP, would not conform with or carry out the certified LUP and must be denied as submitted. The Commission finds that it is important that second units on LIA and LEA agriculturally zoned lands conform to the otherwise applicable density limitations in order to ensure conformance with the policies in the certified LCP regarding the protection of agricultural lands and the provision of public services. Therefore the Commission attaches Suggested Modification

Number 3. As modified, second units will only be conditionally allowed on agricultural lands zoned LIA and LEA in a manner consistent with the agricultural policies of the certified LUP.

The proposed amendment provides that all new development must conform to the development standards of the underlying zone district (including side yard setbacks, height, minimum lot size, width, and depth requirements, etc.) except as otherwise provided by the second unit ordinance. The proposed amendment does not however, place limits on the combined product of the primary residence (and all related development) and secondary dwelling unit when aggregated together. Denser development could be to the detriment of community character, water quality, and coastal viewsheds, and thus inconsistent with the LUP. Fortunately, this problem is easily corrected by specifying that all development standards are cumulative. In other words, if the development standards require that secondary dwelling units when combined with all existing site development must meet all LCP standards when considered together, the amendment would be consistent with and adequate to carry out the policies of the LUP. Therefore, the Commission suggests modification number 4. As modified, the Commission finds that the proposed IP amendment conforms to and is adequate to carry out the requirements of the LUP.

Finally, although the proposed implementation plan amendment identifies several development standards applicable to all second units, it does not contain certain development standards necessary to ensure that all second units conform with and carry out all applicable policies of the certified LUP. Therefore, the proposed implementation plan would not conform with and carry out all applicable policies of the certified LCP. To ensure that all second unit development is consistent with the ESHA, new development, public access and visual resource policies of the LUP, the Commission attaches Suggested Modification No. 4 which inserts development standards that require all second units to: (a) not significantly obstruct public views; (b) be located at least 100 feet from any wetland or ESHA; (c) not obstruct public access to and along the coast or public trails; and (d) assure adequate water supply and wastewater treatment. Only as modified, does the proposed implementation plan, conform with and carry out the policies of the LUP protecting public services, public views, wetlands and ESHA and public access. In addition, the Commission attaches Suggested Modification 2 to make it clear that all residential second units must conform to these standards to be permitted.

C. California Environmental Quality Act (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility

to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP submittal, or, as in this case, an LCP amendment submittal, to find that the approval of the proposed IP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b)**.**

This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are neither additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

EXHIBIT A
Amendments to Zoning Ordinance Definitions

Sections 26-02-140 (Definitions) of Chapter 26 and 26C-12 of the Sonoma County Code are amended to add the definitions of "Efficiency Dwelling Unit," "Emergency Homeless Shelter," and "Small-scale Homeless Shelter;" to delete the definition of "Family;" to modify the definition of "Guest House;" and to replace the existing definition of "Dwelling Unit, Second" (deleting the previous definition and adding a new definition under "Second Dwelling Unit"), as follows:

Efficiency Dwelling Unit means a small, self-contained dwelling unit of not less than 220 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such a unit in excess of two. An Efficiency Dwelling Unit not provided as a part of an SRO our similar living arrangement, as provided by Ordinance, must include the following facilities (2001 CBC 310.6.3):

1) a separate closet;
2) a separate bathroom, containing a water closet, lavatory, and bathtub or shower; and,
3) kitchen facilities, including a sink, cooking appliance, and refrigeration facilities.

~~**Family** means a single and separate living unit, consisting of either:~~

~~(a) one (1) person, or two or more persons related by blood, marriage, or adoption or such legal guardianship pursuant to court order; plus necessary domestic servants, and not more than three (3) roomers or boarders; or,~~

~~(b) A group of not more than five (5) persons unrelated by blood, marriage, adoption or such legal guardianship.~~

Emergency Homeless Shelter means a building, structure, or group of structures under single management that provide temporary, short-term emergency housing for individuals or families. An emergency homeless shelter is typically managed by a non-profit or group of non-profits, a church or group of churches, by other agencies, by volunteers, or by a combination thereof. On-site services may be provided. Beds in an emergency shelter are generally provided dormitory-style, and meals are typically served and eaten as a group. The length of stay is generally not more than 30 days, and is typically less.

Guest house means an accessory building which consists of a detached living area of a permanent type of construction with no provisions for appliances or fixtures for the storage and/or preparation of food, including, but not limited to, refrigeration, dishwashers or cooking facilities. The building shall not be leased, subleased, rented or sub-rented separately from the main dwelling. The floor area of a guest house shall be a maximum of six hundred forty (640) square feet. Floor area shall be calculated by measuring the exterior perimeter of the Guest House and the length of any common walls. In the case of straw bale or similar construction, floor area may be calculated using interior dimensions. For the purpose of calculating the maximum size of a guest house, any storage area attached to the guest house, excluding garage, shall be included. A guest house shall be located closer to the primary dwelling on the subject lot than to a primary dwelling on any adjacent lot. The guest house shall not be located more than one hundred feet (100′) from the primary dwelling on the subject lot, except where the planning director determines

that a greater setback is appropriate in light of topography, vegetation or unique physical characteristics. ~~The planning director may require a use permit or signatures from adjacent property owners.~~

~~**Dwelling unit, second.** "Second dwelling unit" means an attached or detached residential dwelling unit which provides complete independent living facilities for one (1) or more persons, including permanent provisions for living, cooking, sleeping and sanitation on the same parcel where a single-family dwelling is situated, or as specifically permitted in Section 26-88-060(c)(5), on a parcel where a single-family dwelling is proposed for future construction. Second dwelling units are not to be sold separately from the primary dwelling, but may be rented.~~

~~The general definitions set forth in this section shall apply to second dwelling units. Additionally, the following special definitions shall apply to second dwelling units:~~

~~(a) "Attached" means attached by a common wall, common roof, or a covered walkway, carport or garage not more than twenty feet (20') wide.~~

~~(b) "CC&R's" means covenants, conditions and restrictions recorded by a private individual, partnership, limited partnership or corporation, which impose conditions on the use of land.~~

~~(c) "Parcel" means a legally created lot recognized by Section 26-88-020 of the Sonoma County Code. (Ord. No. 3221.)~~

Second Dwelling Unit means an attached or detached residential dwelling unit provided in compliance with Sections 26-88-060 and 26C-325.1, which unit provides complete independent living facilities for one or more persons, and includes separate permanent provisions for entry, living, sleeping, eating, cooking and sanitation on the same parcel as a single-family dwelling (Government Code § 65852.2). A Second Dwelling Unit may also be provided as an Efficiency Dwelling Unit (Health & Safety Code § 17958.1) and/or a Manufactured Home (Health & Safety Code § 18007), as defined in this Section."

Small-Scale Homeless Shelter means a residential or mixed-use structure which provides temporary or transitional housing for up to 10 persons, and may include support services for the residents.

EXHIBIT B
Amendments to Agricultural and Rural Residential Zone Districts

Sections 26-04 and 26C- 20 and 21 (LIA), 26-06 and 26C- 30 and 31(LEA), 26-08 and 26C- 40 and 41(DA), 26-10 and 26C- 50 and 51 (RRD), 26-16 and 26C - 80 and 81 (AR), 26-18 and 26C-90 and 91 (RR), of Chapter 26 of the Sonoma County Code are amended as set forth below:

(a) In the **LIA, LEA, DA, RRD, AR, and RR** Zone Districts, amendments are made to add Second Dwelling Units as a permitted use in designated Class 1, Class 2 and Class 3 Groundwater Availability Areas, as set forth below:

Under Permitted Uses in 26-04-010 and 26C-20 (LIA), 26-06-010 and 26C-30 (LEA, 26-08-010 and 26C-40 (DA), 26-10-010 and 26-C50 (RRD), 26-18-010 and 26C-90 (RR), and 26-16-010 and 26C-80 (AR), add the following:

"One (1) Second Dwelling Unit per lot, pursuant to Section 26-88-060, provided that the water supply for the Second Dwelling Unit is proposed to be located within a designated Class 1, 2 or 3 Groundwater Availability Area. Second units may be established within designated Class 4 water-scarce areas only where a hydro-geotechnical report, as defined, certifies that the establishment and continuation of the secondary residential use will not have significant adverse impacts on local groundwater availability or yield.""

Under Uses Permitted with a Use Permit in 26-04-020 and 26C-21 (LIA), 26-06-020 and 26C-31 (LEA), 26-08-020 and 26C-41 (DA), 26-10-020 and 26C-51 (RRD), 26-16-020 and 26C-81 (AR), 26-18-020 and 26C-91 (RR),delete the following:

~~One (1) second dwelling unit per lot provided that the procedures and all criteria of Section 26-88-060 are met. The procedures include provisions for waiver of the use permit unless a protest of such waiver is received by the planning department. The criteria include, but are not limited to maximum size limitations, maximum separation between primary dwelling units and second dwelling units, setbacks and yard requirements; (Ord. No. 3511.)~~

Sections 26-20 and 26C-100 (R1), 26-22 and 26C-110 (R2) and 26-24 (R3) of Chapter 26 of the Sonoma County Code are amended as set forth below:

(a) In the **R1, R2**, and **R3** Zone Districts, amendments are made to allow Second Dwelling Units as a permitted use, as follows:

Under Permitted Uses in 26-20-010 and 26C-100 (R1), 26-22-010 (R2) and 26C-110 (R2), and 26-24-010 (R3), add:"One (1) Second Dwelling Unit per lot, pursuant to Section 26-88-060 and 26C-325.1."

(b) In the **R1** Zone District, amendments are made to allow guest houses as a permitted use, and to delete guest houses from the list of conditionally permitted uses, as follows:

Under Permitted Uses in 26-20-010 and 26C-100 (R1), add:
"One guest house per lot."

Under Uses Permitted with a Use Permit in 26-20-020 and 26C-101(R1), delete:
~~One guest house per lot~~.

(c) In the **R1, R2**, and **R3** Zone Districts, amendments are made to add small-scale homeless shelters with a minor use permit, as follows:

Under Uses Permitted with a Use Permit in 26-20-020 and 26C-101 (R1), 26-22-020 and 26C-111 (R2), and 26-24-020 (R3):

"Small-scale homeless shelters serving 10 persons or less, subject to Design Review."

(d) In the **R1** Zone District, an amendment is made to provide for a minimum residential density by adding language to Section 26-20-020 (a):

Permitted Residential Density and Development Criteria:

"Residential density shall be between one (1) and six (6) units per acre as shown in the general plan land use or housing element or that density permitted by a "B" combining district. All residential projects shall be designed to meet the minimum density requirements shown in the general plan land use element or on the sectional district maps, whichever is more restrictive, provided however that a lesser density may be approved if the body deciding the application determines that such a reduction in density is necessary to mitigate a particular significant effect on the environment and that no other specific mitigation measure or alternative would provide a comparable lessening of the significant impact. Nothing set forth in this section shall be construed to prohibit the construction of one (1) single-family dwelling on a single lot of record. For a Housing Opportunity Area Type "C" project which meets all of the requirements of Sections 26-88-130,

26C–326.2, and 26-88-122 and 26C-110(a)(3), or where a use permit for such project is approved pursuant to Section 26-22-020(k), the permitted residential density may be increased one hundred percent (100%) above the mapped designation in the general plan to a maximum of eleven (11) dwelling units per acre.

EXHIBIT D
Amendments to Urban Commercial & Industrial Districts

Sections 26-32 and 26C-150 (C2), 26-34 (C3), 26-36 (LC), 26-44 (MP), 26-46 (M1), and 26-48 (M2) of Chapter 26 of the Sonoma County Code are amended to allow small-scale homeless shelters serving up to 10 persons and to allow emergency shelters with up to 50 beds within designated urban service areas, subject to the granting of a use permit and design review,as set forth below:

:

b

30:

(a) In the **C2, C2-CC, C3, MP, M1** and **M2** Zone Districts, amendments are made as follows:

Under Uses Permitted with a Use Permit in 26-32-020 and 26C-151(C2), 26-34-020 (C3), 26-44-020 (MP), 26-46-020 (M1) and 26-48-020 (M2), add the following

"Small-scale homeless shelters serving up to 10 persons, subject to design review, within designated urban service areas."

"Emergency homeless shelters with up to 50 beds, subject to design review, within designated urban service areas."

a) Section 26-88-060 and 26C-325.1 (Second Dwelling Units) is deleted in its entirety, and replaced with a new Section 26-99-060 and 26C-325.1, as follows:

A. Purpose. This Section implements the requirements of Government Code Section 65852.2 and the provisions of the General Plan Housing Element that encourage the production of affordable housing by means of Second Dwelling Units.

B. Applicability. Second Dwelling Units shall be permitted only in compliance with the requirements of this Section, and all other requirements of the applicable Zoning District, except as otherwise provided by this Section, in the following Agricultural and Residential Zoning Districts: LIA (Land Intensive Agriculture), LEA (Land Extensive Agriculture), DA (Diverse Agriculture), RRD (Rural Resources & Development), RR (Rural residential), AR (Agricultural Residential), R1 (Low Density Residential), R2 (Medium Density Residential) and R3 (High Density Residential). Second Dwelling Units are prohibited in the Z (Second Dwelling Unit Exclusion) Combining District.

C. Permit Requirements. A Zoning Permit (Section 26-92-170 and 26C-330-zoning/coastal permit) shall be required for a Second Dwelling Unit. Additionally, Second Dwelling Units must comply with all other applicable Building Codes and requirements, including evidence of adequate septic capacity and water yield.

D. Use. Second Dwelling Units may not be sold separately from the main unit, and may be rented. Occupant(s) need not be related to the property owner. Units may not be rented on a transient occupancy basis (periods less than 30 days) unless a Use Permit is first secured.

E. Unit Type. A Second Dwelling Unit may be attached or detached from the primary dwelling on the site. A detached Second Dwelling Unit may also be a manufactured home, in compliance with Section 26-02-140 and 26C-325.4.

F. Timing. A Second Dwelling Unit allowed by this Section may be constructed prior to, concurrently with, or after construction of the primary dwelling.

G. Density. As provided by Government Code Section 65852.2(b)(5), Second Dwelling Units are exempt from the density limitations of the General Plan, provided that no more than one Second Dwelling Unit may be located on any parcel. A Second Dwelling Unit may not be located on any parcel already containing a non-conforming dwelling with respect to density, , or developed with a duplex, triplex, apartment or condominium.

H. Site Requirements.

1. Water Availability

a) Except as provided in paragraph (b), a Second Dwelling Unit shall be permitted only in designated Groundwater Availability Classification Areas 1 or 2, or where public water is available.

b) A Second Dwelling Unit in a Class 3 Groundwater Availability Area shall be permitted only if:

1. the domestic water source is located on the subject parcel, or a mutual water source is available; and,

2. groundwater yield is sufficient for the existing and proposed use, pursuant to Section 7-12 of the Sonoma County Code.

c) Second Dwelling Units shall not be established within designated Class 4 Groundwater Availability Classification Areas except where both requirements for Class 3 areas, above, are met. Additionally, all applications for a Zoning Permit to allow a Second Dwelling Unit within a Class 4 Area shall be accompanied by a hydro-geological report containing specified information and analysis prepared and certified by an appropriate licensed professional, specific for the subject site and the existing and proposed use, and the report specifically finds and determines that:

i. water yield will be sufficient year-round to serve both the primary and the secondary residential use; and,

ii. the establishment and continuation of the use will not result in significant impacts to local groundwater availability or yield, nor is it expected to have significant long-term and/or cumulative impacts.

2. **Minimum Parcel Size**

a) A Second Dwelling Unit shall be permitted only on parcels with a minimum gross lot area of at least 2.00 acres, except as provided for below:

i. An exception will be made to permit a Second Dwelling Unit on a parcel with a minimum of 1.5 acres in gross lot area in designated Class 1 or 2 Groundwater Availability Areas, provided that an Affordable Housing Agreement pursuant to Section 26-88-120 and Sec. 26C-326 is executed and recorded, restricting the occupancy and rent of the subject unit to very-

low or low income households for a period of at least 30 years. The Agreement shall be subject to review and approval of the County Counsel and the Executive Director of the Community Development Commission.

ii) Where the parcel is served by both public sewer and water, Second Dwelling Units shall be permitted only on parcels with a minimum gross lot area of at least 6,000 sq. ft. without restriction as to tenancy or affordability.

iii) Where the parcel is served by both public sewer and water, Second Dwelling Units shall be permitted on parcels with a gross lot area of at least 5,000 sq. ft., provided that an Affordable Housing Agreement pursuant to Section 26-88-120 is executed and recorded restricting the occupancy and rent of the subject unit to very low or low income households for a period of at least 30 years. The Agreement shall be subject to review and approval of the County Counsel and the Executive Director of the Community Development Commission.

I. Design and Development Standards.

1. **Height**. The Second Dwelling Unit shall not exceed 16 feet in height except that where the unit is attached to the primary unit, or where the Second Dwelling Unit is proposed to be located above a garage, carport or barn, the maximum height shall be that established for the underlying Zoning District. In no case shall the provision of a Second Dwelling Unit result in a substantial reduction in solar access to surrounding properties.

2. **Design**. The Second Dwelling Unit shall be similar or compatible in character to the primary residence on the site and to the surrounding residences in terms of roof pitch, eaves, building materials, colors and landscaping. Second Dwelling Units shall also meet all standards set forth in any applicable Combining District, Specific Plan or Area Plan, or Local Area Development Guidelines.

3. **Size.** A second unit shall not exceed 840 square feet in floor area. When the Second Dwelling Unit is provided as an affordable rental unit, the size limit shall be 1,000 square feet so long as an Affordable Housing Agreement pursuant to Section 26-88-120 and 26C-26 is first executed and recorded, restricting the occupancy and rent for the subject unit to lower income households for a period of at least 30 years. The Agreement shall be subject to review and approval of the County Counsel and the Executive Director of the Community Development Commission.

a. **Calculating the Size of Second Dwelling Units**. Floor area shall be calculated by measuring the exterior perimeter of the Second Dwelling Unit and the length of any common walls. In the case of straw bale or similar construction, floor area may be calculated using interior dimensions. Any storage space or enclosed areas attached to the Second Dwelling Unit shall be included in the size calculation, except: a) a garage, as described below; or, b) where the second unit is constructed over a barn or garage serving the primary residential unit.

b. **Allowable Garage Area**. A garage up to 400 square feet in unconditioned floor area shall be permitted for a Second Dwelling Unit provided that all required setbacks are met. A garage up to 500 square feet shall be permitted if an Affordable Housing Agreement pursuant to Section 26-88-120 and 26C-326 is recorded restricting the rent to lower income households for a period of at least 30 years. No conditioned space shall be allowed within the garage area. A deed restriction be recorded declaring that the garage or barn area is not to be utilized as a part of the conditioned residential space.

4. **Lot Coverage Limitation**. The total lot coverage for parcels developed with a Second Dwelling Unit shall not exceed that allowed within the applicable Zoning District in which the parcel is located.

5. **Setback and Location Requirements**.

a. A Second Dwelling Unit and any attached or detached garage must comply with the setback requirements of the applicable zoning district in which the Second Dwelling Unit is located. **The rear yard setback for Second Dwelling Units located in urban service areas within Zone Districts RR R1, R2 and R3 shall be reduced to five (5) feet**. In the case of an existing legal structure that is nonconforming with respect to setbacks, yard requirements may be reduced through Use Permit approval in order to allow the legal conversion of the existing structure for use as a Second Dwelling Unit.

b. In the case of a Second Dwelling Unit that is located more than 100 feet from the primary dwelling, the Second Dwelling Unit shall maintain minimum front, rear and side setbacks of 60 feet, unless otherwise provided through Use Permit.

6. **Access and Parking Requirements**.

a. **Driveway Access**. Both the primary unit and the Second Dwelling Unit shall be served by one common, all-weather surface access driveway with a minimum width of 12 feet, connecting the Second Dwelling Unit to a public or private road. The requirement for a single driveway connection may be waived in each of the following instances if the Director determines that the waiver of the requirement would not be detrimental to the public health, safety or general welfare:

(1) Where an applicant seeks to convert an existing structure to use as a Second Dwelling Unit, and that structure was served by an access driveway separate from the primary dwelling ; or,

(2) Where the applicant can show that there are already two legally established access driveways to the parcel that are available to serve the primary and secondary dwelling units separately; or,

(3) Where the parcel is split by a public or private road, or where the parcel has frontage on two roads (public or private).

(4) Where the applicant demonstrates an alternative access design that provides an overall reduction in the expanse of driveway area is preferable.

b. **Parking Required**. One (1) off-street parking space with an all-weather surface shall be provided for the exclusive use of the Second Dwelling Unit, in addition to the parking that is required for the primary dwelling.

Section 26-88-120 (Affordable Housing - Requirements for long-term affordability) is amended to add language related to Second Dwelling Units, as follows:

(a) Purpose. This section is intended to implement ~~the provisions of Section 3.1 et. Seq. Of the housing element and~~ Sections 65915 and 65916 of the Government Code concerning density bonuses, and the Housing Element Policies and Programs for affordable housing. Any affordable housing unit or project shall comply with the provisions of this section.

(b) Affordable Housing Agreement Required. The obligations undertaken by a developer in exchange for exception to development standards, or to secure subsidies for construction of an affordable housing project authorized by state law and the housing element, shall be secured by the developer's execution of an Affordable Housing Agreement (Agreement). The Agreement shall include, at a minimum, provisions that the lots or the units thereon shall be reserved for sale or rent as the case may be to moderate, lower, or very low income households in accordance with the approved project and the provisions ~~of Section 3.1 of the Housing Element.~~ of the applicable affordable housing policy or program. The agreement shall be subject to review and approval by the County Counsel and the Executive Director of the Community Development Commission, and include the following provisions . . .

EXHIBIT F

Removal of Quarter-Mile Restriction from Housing Opportunity Areas

Section 26-88-122 and 26C-326.2 (Housing Opportunity Areas) of Chapter 26 of the Sonoma County Code is amended to delete the quarter-mile restriction for affordable housing projects, as follows:

Under Criteria for Approval of Type A and C Projects

"(1) General Requirements.

(i) The terms of affordability shall be contained in an affordable housing agreement pursuant to Section 26-88-120 and 26C-326..

(ii) Only housing developments consisting of five (5) or more dwelling units may be approved for under the Type A and Type C programs.

~~(iii) A Type A project shall not be located closer than one-fourth (1/4) mile to any other housing opportunity Type A project unless a use permit is first obtained.~~

~~(iv) A Type C project shall not be located closer than one-fourth (1/4) mile to any other housing opportunity Type C project unless a use permit is first obtained.~~

(iii) No property may be approved for an increase in density pursuant to housing opportunity Type A or Type C programs unless the project:

(A) Is adequately served by public sewer and public water, police, public transit, fire protection, and schools;

~~(B) Does not exceed the holding capacity of the area as set forth in the general plan;~~

(C) Complies with the provisions of growth management policies."

A new Article 93 is added to Chapter 26 of the Sonoma County Code, and Article 39 to Chapter 26C of the Coastal Code, as follows:

"Article 93

Requests for Reasonable Accommodation Under the Fair Housing Acts.

26-93-010 and 26C-39. Purpose.

This Section provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

26-93-020 and 26C-391. Applicability.

A request for reasonable accommodation may be made by any person with a disability, or by an entity acting on behalf of a person or persons with disabilities to provide or secure equal access to housing, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. This Section is intended to apply to those persons who are defined as disabled under the Acts.

A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability with equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner prescribed by Section 26-93-030 (Application Requirements).

26-93-030 and 26-39.2. Application Requirements.

(a) Application. Requests for reasonable accommodation shall be submitted on an application form provided by the Planning Department, or in the form of a letter to the Deputy Director of Planning, and shall contain the following information:

(1) The applicant's name, address and telephone number.
(2) The street address and Assessor's Parcel Number of the property for which the request is being made.
(3) The current actual use of the property.

(4) The basis for the claim that the individual (or group of individuals, if application is made by an entity acting on behalf of a person or persons with disabilities) is considered disabled under the Acts.

(5) The zoning law, provision, regulation or policy from which reasonable accommodation is being requested.

(6) Why the requested accommodation is necessary to make the specific property accessible to the individual or group of individuals.

(b) Concurrent Review. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval, then the applicant may file the request concurrently with the application for discretionary approval.

26-93-040 and 26C-39.2. Review Authority & Procedure.

(a) Director. Requests for reasonable accommodation shall be reviewed by the Planning Director, or his/her designee, if no approval is sought other than the reasonable accommodation request. The Director or his/her designee shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 26-93-050 (Findings and Decision).

(b) Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application. The applicable review authority shall make a written determination and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 26-93-050 (Findings and Decision).

26-93-050 and 26C-39.3. Findings and Decision.

(a) Findings. The written decision to grant, grant with modifications, or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following:

(1) Whether the housing which is the subject of the request will be used by an individual or a group of individuals considered disabled under the Acts, and that the accommodation requested is necessary to make specific housing available to the individual or group of individuals with (a) disability(ies) under the Acts.

(2) Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit, or if alternative accommodations would be suitable based on the circumstances of this particular case.

(3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the County.

(4) Whether the requested reasonable accommodation would be consistent with the General Plan Land Use designation of the property which is the subject of the reasonable

accommodation request, and with the general purpose and intent in the applicable Zoning District.

(5) Whether the requested reasonable accommodation substantially affects the physical attributes of the property.

(b) Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required in Subsection A above.

26-93-060. Appeal of Determination.

A determination by the reviewing authority to grant, grant with modifications, or deny a request for reasonable accommodation may be appealed pursuant to Section 26-92-040 of the ZoningCode."

and Resource Management Department may require a use permit or signatures from adjacent property owners.

Section 26C-324. Building Lines.

(a) Building lines may be established for the purpose of determining building locations. Such building lines shall be indicated on the zoning maps.

(b) Building lines shall be measured from the property line or adopted plan lines and shall supersede the front yard setback requirements of the zoning district within which the particular parcel(s) is located.

(c) Building lines shall be established in the manner provided by Article 94.

Section 26C-325.

Section 26C-325.1. Second Dwelling Units.

(a) Establishment of Second Dwelling Units: Second dwelling units shall be permitted in accordance with the provisions of this section. The purpose of this section is to implement the requirements of Government Code Section 65852.2 requiring local agencies to provide for the establishment of second dwelling units within their respective boundaries.

Second dwelling units may be established by any of the following methods:

(1) The remodeling of existing habitable area in a primary dwelling unit whereby living, cooking, sleeping, sanitation facilities are installed, and which facilities are not shared in common with the cooking, sleeping and sanitation facilities in the primary dwelling unit;

(2) The conversion of an attic basement, garage or other previously uninhabited portion of a single family, whereby separate living, cooking, sleeping and sanitation facilities are installed therein;

(3) The construction of an addition which is attached onto the primary dwelling unit which contains living, cooking, sleeping and sanitation facilities separate from the primary dwelling;

(4) The construction of a separate structure on the lot or parcel which contains living, cooking, sleeping and sanitation facilities, in addition to and detached from the primary dwelling unit;

(5) The placement of a manufactured home on the parcel;

(6) The use, or modification and use of an existing legal non-conforming dwelling: or

(7) The conversion of a detached accessory structure by installing living, cooking, sleeping and sanitation facilities.

On parcels located in the LIA, LEA, DA and RRD districts, the second dwelling unit may be constructed simultaneously with, subsequent to, or prior to the primary dwelling unit. In all other districts in which second dwelling units are permitted, a second dwelling unit may not be occupied unless the parcel has been developed with a completed residence. When concurrent construction is proposed, the second unit permit shall prohibit occupancy of the second unit prior to occupancy of the primary unit.

(b) Requirements pertaining to all second units: The following requirements shall pertain to all second units and second unit applications in the unincorporated area of the County of Sonoma. No zoning permit or use permit for a second unit shall be issued, nor shall any second unit be constructed, located or used in any district, unless the proposed second unit meets all of the following requirements:

(1) A second dwelling unit can be no larger than ten (10) percent of the parcel on which it is to be located, but in no case larger than eight hundred forty (840) square feet. Notwithstanding the foregoing, a minimum floor area of six hundred forty (640) square feet is permitted for parcels ranging in size from six thousand (6,000) square feet to six thousand four hundred (6,400 square feet. For purposes of computing the square footage of a second dwelling unit which is detached from the primary single-family dwelling, all enclosed areas accessed from within the second dwelling unit shall be included. Notwithstanding the foregoing, an enclosed storage area, or garage of up to four hundred (400) square feet in area, shall not be included when calculating the square footage of the second dwelling unit provided that there is no internal doorway or passage between such storage or garage and the second dwelling unit.

(2) A second unit shall not be located on a parcel upon which a duplex, triplex, apartment house or condominium is located.

(3) A second unit shall not be located on a parcel upon which there is located more than one (1) dwelling unit.

(4) There shall be no more than one (1) second unit per parcel.

(5) No second unit permit shall be issued for a parcel which has not been developed with a completed residence unless the parcel is located in an LIA, LEA, DA, or RRD zoning district and contains at least two (2) acres (Ord. No. 3679).

(6) No second unit permit shall be issued unless the Director of the Permit and Resource Management Department, or his designee, determines that the design of the second unit is similar in scale, appearance, and character to the existing dwelling unit and is otherwise compatible with existing structures on the parcel and in the neighborhood.

(7) No second unit permit shall be issued where the issuance of such permit will result in a flood, geologic, or public health or safety hazard.

(8) No second unit permit shall be issued unless the second unit will comply with the requirements set forth in the General Plan and Coastal Plan, including, but not limited to, open space, design review and scenic quality provisions contained therein. This subsection shall not be construed to require conformance with density provisions contained in the General Plan or Coastal Plan.

(9) No second unit permit shall be issued unless the proposed second unit complies with all applicable building, fire, health and safety codes.

(10) The County shall have the right, but not the obligation, to refuse to issue a second unit permit where the proposed second unit would be prohibited by CCR's recorded prior to November 19, 1985. In no event shall the County refuse to issue a second unit permit on the basis of CCR's, where the enforcement of such CCR's would be unconstitutional, in violation of law, or otherwise contrary to public policy.

(11) No second unit permit shall be issued unless there is provided one (1) off-street all-weather surface parking space.

(12) No second unit permit shall be issued unless and until all required fees have been paid, including, but not limited to, school impact fees, road, traffic and other mitigation fees, where applicable.

(13) Where a second dwelling has been built or expanded illegally, a second unit permit may be issued, or a revoked permit, reinstated, only upon conforming with the requirements of this Section and upon compliance with the provisions of Section 1-7.1 of the Sonoma County Code.

Where the applicant seeks to establish a structure constructed prior to December 8, 1983, as a second unit as provided herein, the minimum yard requirements may be reduced, where, in the opinion of the Director of the Permit and Resource Management Department, or other applicable decision-making body a reduction of the yard requirements would not be detrimental to the public health, safety, or general welfare.

(14) No second unit permit shall be issued for the purpose of placing a second unit on a parcel of less than two acres if such parcel is not served by both public water and public sewer. For purposes of computing the acreage required by this subsection, there shall be excluded areas covered by roadway easements for ingress or egress and such other areas, excluding public utilities easements, as may have been offered for dedication for other public purposes.

(15) No second unit permit shall be issued for a parcel of less than 6,000 square feet. For purposes of computing the square footage requirement, those areas referred to in the preceding paragraph shall be excluded.

(16) No permit for a second unit shall be issued unless a minimum of twelve (12) feet of all weather surface right-of-way is provided to the parcel except where the district fire chief or county fire services director determines that a road of some other surface or width is necessary for fire apparatus and emergency vehicles (Ord. 3679).

(17) In the event that the district in which the proposed second unit is to be located prohibits construction of structures which exceed thirty percent (30%) of the width of the parcel, second units shall comply with such provisions.

(18) Conventional metal-sided mobile homes may not be used as a second unit. A manufactured home on a permanent foundation may be used as a second unit provided that

A. It has been certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 and less than ten (10) years have elapsed between the date of manufacture of the manufactured home and the date of application for the issuance of a permit to install the manufactured home; or

B. It is factory-built housing as defined in California Health and Safety Code Section 19971; and

C. It meets all of the requirements of this Section, and following:

1. It has a minimum width of twelve (12) feet;
2. It is covered with an exterior material (such as wood, stucco, masonite or horizontal "lap" siding) customarily used for conventional dwellings. The exterior material must extend to the ground and be approved by the Director of the Permit and Resource Management Department or his designee;
3. It has a roof pitch of not less than three (3) inches of vertical rise for each twelve (12) inches of horizontal run. The roof must consist of shingles or other material customarily used for conventional dwellings. The roof must be approved by the Director of the Permit and Resource Management Department or his designee; and
4. It has eaves of a conventional design.

(19) Second unit permits are subject to the provisions of Section 26C-335.1 which provides that permits shall become void if construction is not commenced within two (2) years after the date they are granted or for such additional period of time as may be specified in the permit. This two (2) year period may be extended for an additional one year upon written request and approval by the Director of the Permit and Resource Management Department.

(20) Total lot coverage for parcels developed with a second unit shall not exceed fifty percent (50%).

(21) Water Source. Where a parcel is located in a groundwater availability category 4, or relies on a water source located in said category a second dwelling unit shall not be approved for a parcel for which the source of domestic water is a private well or spring located on another parcel.

(22) ordinance, regulation, case law or the County's police power.

(c) Regulations Pertaining to Specific Districts

(1) No second unit permits shall be issued in the RRDWA or PC districts.

(2) The following regulations shall apply to second units in the RR, AR, LIA, LEA, DA, and RRD districts.

(i) Second dwelling units may be attached or detached from the primary dwelling unit.

(ii) A use permit or use permit waiver is required for all second dwelling units.

(iii) No second dwelling unit shall be located more than three hundred (300) feet from the primary dwelling unit located on the same parcel.

(iv) No second dwelling unit shall be located closer to any dwelling unit on an adjacent parcel than it is to the existing dwelling unit on its own parcel, except where an existing structure is being legalized pursuant to subsection (b) 13 of this section and such structure was constructed on or before December 8, 1983.

(v) Second dwelling units which are located one hundred (100) feet or less from the primary dwelling on the same parcel must be set back no less than 20 feet from the rear property line. Second dwelling units which are located more than one hundred (100) feet from the primary dwelling on the same parcel must be set back no less than sixty (60) feet from any property line.

(vi) Only one (1) access driveway connection shall be permitted to a public or private road, which driveway shall serve both the primary and second dwelling units.

(3) The following regulations shall apply in the R1, R2 and districts:

(i) A second dwelling unit shall be attached to the existing primary dwelling unit, except, notwithstanding the provisions of Section 26C-350, a legal non-conforming, detached, dwelling unit which is smaller than the size limits set forth in subsection (b) (1) of this section may be expanded and converted to a second dwelling unit of a size not to exceed the maximum size limits set forth in subsection (b) (1) of this section, subject to securing a use permit in each case. All other provisions of this ordinance shall be complied with. (Ord. 3679.)

(ii) Second units must be set back no less than five (5) feet from the rear property line.

(iii) No second unit permit shall be issued unless the parcel is served by public sewer and public water.

(d) Procedure for Second Unit Applications

(1) Second dwelling units require a zoning permit or, in certain districts, a use permit. When making an application for a zoning permit or coastal/use permit for the establishment of a second unit, the following procedure shall be adhered to:

(i) The applicant shall file an application on forms prescribed by the Permit and Resource Management Department.

(ii) At the time of filing the application, the applicant shall pay a second unit dwelling unit application fee. The fee may be set by resolution of the Board of Supervisors and may be adjusted by the Board from time to time to reflect the cost of processing the applications and related appeals.

(iii) The application shall include a site plan, elevations, drawings, photographs, floor plans and such further information as the Permit and Resource Management Department deems necessary to evaluate the application in light of the requirements contained in this section.

(iv) After receiveing the completed application and accompanying material, the Permit and Resource Management Department shall give notice of the application as provided for in subsection (d) (2) (i) or (d) (3) (i), whichever is applicable.

(2) When processing an application for a second dwelling unit which does not require a coastal/use permit, the following additional procedures shall be adhered to:

(i) At least ten (10) days prior to the date upon which the zoning permit for the second dwelling unit would be issued the Permit and Resource Management Department shall mail notice of the application to all property owners within three hundred (300) feet of the subject property and shall post a notice on the property for at least ten (10) days indicating the applicant's intent to locate a second unit on the property. The written notice which is mailed and posted shall state that the County intends to issue a zoning permit for a second dwelling unit on the property unless a written protest is received by the Permit and Resource Management Department within the ten (10) day period.

(ii) If no written protest and fee is received within the ten (10) day period, the Permit and Resource Management Department may issue a zoning permit for the second unit.

(iii) If a written protest is filed within ten days of posting or publication, it must be accompanied by a fee in an amount set by resolution of the Board of Supervisors. The only grounds for a written protest shall be that the proposed second dwelling unit does not meet the criteria set forth in this section.

(iv) A homeowner's association or members thereof wishing to object to the issuance of a zoning permit for a second dwelling unit on the basis that it is prohibited in the CCRs must include, with the written protest, a complete copy of the CCRs bearing the stamp of the Sonoma County Recorder.

(v) If a written protest on proper grounds and fee is received within the ten (10) day period, the Permit and Resource Management Department will schedule a hearing on the proposed second dwelling unit before the Board of Zoning Adjustments. The Board of Zoning Adjustments will determine whether the proposed second unit meets the criteria set forth in this section.

(vi) Decisions of the Board of Zoning Adjustments are appealable to the Board of Supervisors within twelve (12) days from the date of the Board of Zoning Adjustments' action. Appeals shall be accompanied by a fee to be set by Resolution of the Board of Supervisors. The Board of Supervisors shall hear the matter de novo.

(vii) If a second dwelling unit application is appealed to the Board of Zoning Adjustments or the Board of Supervisors, the appropriate Board may approve, deny or conditionally approve the permit based on the criteria set forth in this section.

(3) When processing an application for a second dwelling unit which requires a coastal/use permit, the following additional procedures shall be adhered to:

(i) The Permit and Resource Management Department shall mail notice of the application to all property owners within three hundred (300) feet of the subject property and shall post a notice on the property for at least ten (10) days indicating the applicant's intent to locate a second dwelling unit on the property. The written notice which is mailed and posted shall state that the County intends to waive the requirement for a coastal/use permit and approve construction of a second dwelling unit on the property unless a written protest is received by the Permit and Resource Management Department within the ten (10) day period.

(ii) If no written protest is received within the ten (10) day period, the Permit and Resource Management Department may waive the use permit. Notwithstanding the foregoing, such use permit shall not be waived by the Permit and Resource Management Department unless the Director of the Permit and Resource Management Department first makes all of the required findings set forth in subsection (d) (3) (v) of this section.

(iii) The only grounds for a written protest shall be as follows:

(A) That the proposed second dwelling unit does not meet the criteria set forth in this section;

(B) That the proposed second dwelling unit will be incompatible in the neighborhood, due to increased noise or traffic, placement of the second dwelling unit;

(C) That the second dwelling unit will pose adverse drainage and erosion impacts;

(D) That the proposed second dwelling unit will be incompatible with an adjacent agricultural operation.

(iv) A homeowner's association or members thereof wishing to object to a use permit waiver for a second dwelling unit on the basis that it is prohibited by CCRs must include, with the written protest, a complete copy of the CCRs bearing the stamp of the Sonoma County Recorder.

(v) If a written protest on proper grounds is received within the ten (10) day period, the application for a use permit for a second dwelling unit shall be noticed and processed in the same manner as any other application for a use permit; provided, however, that in addition to making the finding required by Section 26C-332.1, the Board of Zoning Adjustments and the Board of Supervisors, on appeal, shall also find that the proposed second unit meets all of the requirements of this section. Additionally, the respective Boards shall consider increases in noise or traffic, site placement of the second unit, whether there exists adequate drainage and erosion controls and whether the proposed second unit is compatible with any adjacent agricultural operations. In the case of a use permit waiver, the Director of the Permit and Resource Management Department must make all of the findings required in this subsection, prior to waiving the use permit.

(vi) Decisions of the Board of Zoning Adjustments are appealable to the Board of Supervisors within twelve (12) days from the date of the Board of Zoning Adjustments' action. Appeals shall be accompanied by a fee to be set by Resolution of the Board of Supervisors. The Board of Supervisors shall hear the matter de novo.

(vii) If an application for a second dwelling unit is protested to the Board of Zoning Adjustments or appealed to the Board of Supervisors, the appropriate Board may approve, deny or conditionally approve the permit based on the criteria set forth in this section.

(e) Miscellaneous Provisions.

(1) Except as is otherwise provided herein, in the event that the provisions of this Section conflict with other provisions of Chapter 26C with respect to the regulation of second units, the provisions of this Section control. (Ord. No. 4935 § 1, 1996; Ord. No. 4781 § 2 (C-L), 1994; Ord. No. 4643, 1993; Ord. No. 3511.)

Section 26C-325.2. Recycling Collection and Processing Facilities.

The criteria and standards for recycling collection and processing facilities are as follows:

(a) Permits Required.

(1) No person shall place or permit placement, construction, or operation of any recycling facility, including reverse vending machine, large or small collection facility, or light or heavy processing facility without first obtaining a use permit or design review approval pursuant to the provisions set forth in this Section. Subject to the restrictions and requirements of this section, recycling collection and processing facilities may be permitted as set forth in the following table:

Type of Facility	Zones Permitted	Permit Required
Reverse Vending Machine	CS, CT, C2, CF, PF, PC, AS	Administrative Design Review
Small Collection Facility	CS, CT, C2, CF, PF, PC, AS	Administrative Design Review
Large Collection Facility	CF	Use Permit
Light Processing Facility	CF	Use Permit
Heavy Processing Facility	CF	Use Permit

(2) A Planned Community (PC) district may expressly permit or prohibit recycling facilities. Where a PC district does not specifically address such facilities but allows uses permitted in the CS, CT, C2, CF, PF, AS districts, reverse vending machines and small collection facilities may be permitted with an administrative design review permit.

(3) A single administrative design review permit may be granted to allow more than one Reverse Vending Machine or more than one Small Collection Facility, even if located on different sites, pursuant to the following criteria:

a. the operator of each of the proposed facilities is the same;

b. the proposed facilities are determined by the Director of the Permit and Resource Management Department to be similar in nature, size and intensity of activity;

c. all of the applicable criteria and standards set forth in this section are complied with.

Sec. 7-12. Building permits in water scarce areas and second dwelling units in marginal water areas.

1. No building permit for new or replacement residential dwelling units shall be issued within the water scarce area four (4) or for new or replacement second dwelling units within the marginal water availability area three (3) where the water supply is from individual wells, springs or any other sources, unless the following requirements are met:

(a) That the well or wells yield a minimum of one (1) gallon per minute per dwelling unit by a sustained yield, metered pump test of the following duration:

(1) Each dwelling unit is a connection to the well. Wells with one (1) to two (2) connections: test of twelve (12) hours or eight (8) hours in accordance with the Sonoma County Permit and Resource Management Department's well pump test guidelines,

(2) Wells with three (3) to four (4) connections: test of twenty-four (24) hours or sixteen (16) hours in accordance with the Sonoma County permit and resource management department's well pump test guidelines,

(3) Wells with five (5) or more connections: test of at least seventy-two (72) hours after the dynamic pumping level has been established. A reduction of the seventy-two (72) hour metered pumping test may be granted by the administrative authority if it is indicated that the sustained yield well production is two (2) or more times greater than required. Under no circumstances shall the test be less than forty-eight (48) hours.

NOTE: Also see Section 64563 of the California Code of Regulations for determination of source capacity for systems with five (5) or more connections.

(b) That a minimum storage capacity shall be provided as follows:

(1) Single-family dwelling (one (1) connection) -- one thousand (1,000) gallons shall be provided either in the well hole or in a storage tank, or both; provided, however, that only five hundred (500) gallon storage shall be required if the yield is three (3) gallons per minute; provided further, however, that no storage is required if the well yield is five (5) gallons per minute, or greater,

(2) Two (2) or more connections -- one thousand (1,000) gallons shall be provided per connection, either in the well hole or in a storage tank, or both, as required by the county of Sonoma water system standards, whichever is greater,

(3) Note: These volumes are for domestic water storage. Additional storage volume is required for fire control.

(c) The tests shall be conducted from July 15th to October 1st. The test period may be extended by the project review and advisory committee. Pump tests shall be performed by

or under the direction of a licensed water well drilling contractor (C57), pumping contractor (C6l/D21), a registered civil engineer or a registered geologist who shall report test results to the director of permit and resource management department. The director of permit and resource management department shall be notified a minimum of twenty-four (24) hours prior to the pump testing of wells or springs;

(d) That, if spring(s) or other water sources are to be used as the primary domestic water source, yields and required storage capacity shall meet the same minimum requirements as for wells. Springs shall be perennial;

(e) Application may be made to the project review and advisory committee for approval of alternate methods of water supply.

2. Notwithstanding Section 1., a building permit for new or replacement residential dwelling units may be issued within the water scarce area four (4) or for new or replacement second dwelling units within the marginal water available area three (3) if the permittee obtains an easement for water supply on a parcel that is entirely within a Groundwater Availability Area 1, major groundwater basin (Zone 1); or Area 2, major natural recharge area (Zone 2), in a format approved by the permit and resource management department. (Ord. No. 5754 § 1(k), 2007: Ord. No. 5489 § 1, 2004: Ord. No. 5167 § 1(h), 1999: Ord. No. 4906 § 3, 1995.)

January 13, 2003

TO: City/County Planning Directors
Coastal Planners

FROM: Peter Douglas,
Executive Director

SUBJECT: Coastal development permit procedures for second units (AB 1866 (Wright))

On September 29, 2002, Governor Davis signed AB 1866 (Wright), amending Government Code Section 65852.2[1] regarding local government review of proposed second units, commonly called "in-law units" or "granny flats."[2] Because the new law changes the process for second unit approvals in the coastal zone, several local governments have requested clarification from the Coastal Commission regarding how these provisions should be coordinated with Coastal Act policies. This memorandum is meant to provide that clarification and make suggestions so that local governments do not inadvertently contravene Coastal Act requirements in their efforts to comply with the new law.

AB 1866 adds three new provisions to Section 65852.2 that are particularly significant for the purposes of reviewing proposed second units within California's coastal zone:

1) It amends Section 65852.2(a) to require local governments that adopt second unit ordinances to consider second unit applications received on or after July 1, 2003, "ministerially without discretionary review or a hearing." Gov. Code § 65852.2(a)(3).
2) It amends Section 65852.2(b) to require local governments that have not adopted second unit ordinances to "approve or disapprove the [second unit] application ministerially without discretionary review." Gov. Code § 65852.2(b)(1).
3) It adds Section 65852.2(j), which provides that "[n]othing in [Section 65852.2] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act . . . except that the local government shall not be required to hold public hearings for coastal development permit applications for second units."

AB 1866 significantly changes one component of local government *procedures* regarding coastal development permits ("CDPs") for second units, but does *not* change the substantive standards that apply to CDPs for second units. Currently, local governments must conduct public hearings regarding any second units that are appealable to the Coastal Commission. Local governments

[1] Unless otherwise specified, all statutory citations in this memorandum are to the California Government Code.

[2] This memorandum provides guidance to local governments regarding review of coastal development permit applications to build second units. It does not address other provisions of AB 1866, such as changes to the "density bonus" statute, Government Code Section 65915.

may, depending upon the provisions of the applicable certified Local Coastal Program ("LCP"), be required to conduct public hearings regarding non-appealable second units located in the coastal zone. *See* 14 Cal. Code Regs. §§ 13566, 13568. Pursuant to AB 1866, local governments can no longer be required to hold public hearings regarding second units. This prohibition applies both to initial local review and any subsequent local appeals that may be allowed by the LCP. The restriction on public hearings, however, does not apply to the Coastal Commission itself. The Commission will continue to conduct public hearings on proposed second units located in areas where the Commission retains permitting jurisdiction and when locally approved CDPs are appealed to the Commission.

AB 1866 does not change any other procedures or the development standards that apply to second units located within the coastal zone. Rather, it clarifies that all requirements of the Coastal Act apply to second units, aside from requirements to conduct public hearings. *See* Gov. Code § 65852.2(j). Thus, for example, public notice must be provided when second unit CDP applications are filed and members of the public must be given an opportunity to submit comments regarding the proposed development. *See* 14 Cal. Code Regs. §§ 13565, 13568(b). When a second unit application is appealable, local governments must still file a final local action notice with the Commission and inform interested persons of the procedures for appealing the final local action to the Commission. 14 Cal. Code Regs. §§ 13571, 13565(7). In addition, all development standards specified in the certified LCP and, where applicable, Chapter 3 of the Coastal Act apply to second units. A local government may not issue a CDP for a second unit without first finding that the proposed unit is consistent with the certified LCP and/or the applicable policies of Chapter 3 of the Coastal Act. *See* Pub. Res. Code § 30604(a)-(c).

Because AB 1866 requires changes to the procedure for reviewing CDP applications for second units, Commission staff advises local governments with certified LCPs to submit LCP amendments revising the procedures for second unit CDP applications. To the extent LCP amendments implement only procedural changes pursuant to the requirements of Section 65852.2, Commission staff will recommend that the Commission approve them as de minimis LCP amendments pursuant to Public Resources Code Section 30514(d).

BILL NUMBER: AB 1866 CHAPTERED
BILL TEXT

INTRODUCED BY Assembly Member Wright

An act to amend Sections 65583.1, 65852.2, and 65915 of the Government Code, relating to housing.

* * *

SEC. 2. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) Any local agency may, by ordinance, provide for the creation of second units in single-family and multifamily residential zones. The ordinance may do any of the following:

(A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.

(B) Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of second units.

(b) (1) When a local agency which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.

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Memo from Executive Director Peter Douglas regarding local government implementation of AB 1866 (Page 3 of 5)

(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements which apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of second units if these provisions are consistent with the limitations of this subdivision.

(5) A second unit which conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.

(d) A local agency may establish minimum and maximum unit size requirements for both attached and detached second units. No minimum or maximum size for a second unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(f) Fees charged for the construction of second units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of second units.

(h) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) or (c) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

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(1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Second unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for second units.

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