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Prepared November 22, 2019 for December 13, 2019 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
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**Subject: Santa Cruz County LCP Amendment Number LCP-3-SCO-19-0148-2-Part A
(Permanent Room Housing)**

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County is proposing to amend the Land Use Plan (LUP) and the Implementation Plan (IP) of its certified Local Coastal Program (LCP) to accommodate the new Permanent Room Housing (PRH) combining district overlay. The PRH combining district is intended to recognize and legalize permanent residential occupancy on properties with buildings previously used as nursing homes, residential care facilities, and other transient uses. The creation of the PRH combining district protects these existing residential units, which provide lower- and moderate-cost housing, from being demolished or converted to non-residential uses. The proposed IP amendment would protect against the future conversion of existing motels and hotels within the coastal zone to residential uses. The proposed amendment, with staff's recommended modifications, would be limited to parcels in the coastal zone that are designated and zoned for non-visitor-serving uses.

Specifically, the proposed amendment provide regulations and standards unique to the PRH combining district, clarify which parcels are eligible for the combining district, and the process for adding the PRH combining district overlay to individual parcels to provide for additional housing opportunities. The proposed amendment also expounds upon existing LCP provisions related to the protection of low-cost overnight accommodations (which are a priority use under the LCP) to ensure that the proposed PRH combining district would not be used as a pathway to convert existing motels and hotels within the coastal zone to residential uses. Staff's suggested modifications to the proposed LUP amendments specifically ensure that parcels with a VA (Visitor Accommodation) land use designation are not eligible for the PRH combining district overlay, thereby ensuring that any parcels so designated will remain so and/or continue to be used to serve visitors, including potentially for lower-cost accommodations. Staff has worked closely with the County on the suggested modification language, and County staff and Commission staff are in agreement on the recommended modifications.

Thus, staff recommends that the Commission find that the proposed LUP amendment, as modified, is consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. Staff further recommends that the Commission approved the IP amendment as submitted, which will conform with, and be adequate to carry out, the relevant provisions of the County's certified LUP, as amended. The motions and resolutions are found on pages 4-5 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 12, 2019. The proposed amendment affects both the LCP's LUP and IP. The 90-working-day action deadline is March 25, 2020. Thus, the Commission has until March 25, 2020 to take a final action on this LCP amendment unless the Commission extends the action deadline (it may be extended by up to one year).

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EXHIBITS

Exhibit 1: Proposed LUP Amendment

Exhibit 2: Proposed IP Amendment

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment as suggested to be modified by staff. The Commission needs to make three motions, two on the LUP amendment and a third on the IP amendments, in order to act on this recommendation.

A. Deny the LUP Amendment as submitted

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in denial of the LUP amendment as submitted and adoption of the following resolution. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion: *I move that the Commission certify Land Use Plan Major Amendment Number LCP-3-SCO-19-0148-2-Part A as submitted by Santa Cruz County, and I recommend a **no** vote.*

Resolution: *The Commission hereby denies certification of Land Use Plan Major Amendment Number LCP-3-SCO-19-0148-2-Part A as submitted by Santa Cruz County and adopts the findings set forth below on grounds that the land use plan amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment as submitted.*

B. Certify the LUP Amendment with Suggested Modifications

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 to certify with suggested modifications passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion: *I move that the Commission certify Land Use Plan Major Amendment Number LCP-3-SCO-19-0148-2-Part A if it is modified as suggested in this staff report, and I recommend a **yes** vote.*

Resolution: *The Commission hereby certifies Land Use Plan Major Amendment Number LCP-3-SCO-19-0148-2-Part A to the Santa Cruz County Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified.*

C. Certify the IP Amendment as Submitted

Staff recommends a **NO** vote on the motion below. Failure of the motion will result in certification of the IP amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission reject Implementation Plan Amendment Number LCP-3-SCO-19-0148-2-Part A as submitted by Santa Cruz County, and I recommend a **no** vote.*

***Resolution:** The Commission hereby certifies Implementation Plan Amendment Number LCP-3-SCO-19-0148-2-Part A as submitted by Santa Cruz County and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment 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 which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act consistency findings. If Santa Cruz County accepts the following suggested modifications within six months of Commission action (i.e., by June 13, 2020), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format and text in underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

1. Modify Policy LUP Policy 2.12.4 (Permanent Room Housing Uses in Commercial Designations) as follows:

Regardless of commercial land use designation, with the exception of the Visitor Accommodations Designation (C-V) in the coastal zone, allow 100% residential use on properties within the "Permanent Room Housing" Combining District.

2. Modify LUP Policy 2.16.9 (Conversion of Visitor Accommodations to Residential Uses) as follows:

Prohibit conversion of visitor accommodations in the coastal zone to any lesser non-priority use unless it ~~is can be~~ demonstrated that it is economically infeasible to use the property for ~~any~~ a higher-priority use. Absolutely prohibit the conversion of hotels or motels with "Visitor Accommodation" or "Tourist Commercial" zoning and/or a "Visitor Accommodations" land use

designation in the coastal zone. Require any visitor accommodations that are converted to a permanent occupancy residential use to conform to applicable General Plan and LCP Land Use ~~Plan Density Standards~~ Program policies and comply with requirements of the Permanent Room Housing (PRH) Combining District and all conditions of approval of the Use/Development Permit for the PRH use where applicable. ~~Provide a minimum of 15 percent of the units as affordable to lower and moderate income households.~~

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The proposed LCP amendments establish a Permanent Room Housing (PRH) combining district overlay in an effort to increase the affordable housing stock in Santa Cruz County. The primary purpose of the PRH combining district is to recognize existing higher density residential uses in former care facilities and obsolete visitor accommodations, and secondarily, to create a pathway for such existing obsolete facilities to be used as housing in the future.

Specifically, the proposed IP amendments would:

- Define PRH as “an independent dwelling space intended for long-term (30 days or more) rental occupancy as separate living quarters, with direct access from outside the building or through a common hall, meeting the development standards in SCCC [IP Section] 13.10.427.”
- Allow the PRH combining district overlay in the following zoning districts:
 - RA (single-family residential and agricultural (rural));
 - RR (single-family residential (rural));
 - R-1 (single-family residential (urban, rural));
 - RB (single-family residential (oceanfront, urban));
 - RM (multiple-family residential (urban))
 - PA (professional and administrative offices);
 - C-1 (neighborhood-serving, small-scale commercial services and retail uses);
 - C-2 (community-serving, large-scale retail uses and small scale commercial services);
 - C-4 (commercial services of all types and uses needing large sites or outdoor use areas);¹
 - SU (Special Use, which allows for a variety of allowable uses including all uses allowable in all other zoning districts including residential, commercial, manufacturing, timber harvest etc.)

¹ Residential uses are not currently allowed within the C-4 zoning district, and thus the proposed amendment represents a change in use for the C-4 zoning district. Residential uses are already allowable within the remaining commercial zoning districts, all residential zoning districts, as well as the Special Use zoning district.

- Prohibit the PRH combining district in the VA (visitor accommodations) and CT (visitor-serving uses and facilities) zoning districts within the coastal zone.
- Set forth standards for residential units in the PRH combining district, including minimum and maximum unit size, kitchen/bathroom facilities, health and safety requirements, off-street parking requirements, and require a five-year permit review to ensure that the units continue to meet health and safety standards and remain affordable.
- Clarify that to add the PRH combining district overlay to a parcel requires an LCP amendment, and such an amendment would be reviewed against LUP policies that prohibit the conversion of higher-priority uses (e.g., visitor accommodations) to lower-priority uses (residential).

The proposed amendments also include corresponding LUP amendments recognizing the new PRH combining district and encouraging affordable housing opportunities, while protecting overnight accommodations for visitors.

Please see **Exhibit 1** for the proposed LUP amendment text and **Exhibit 2** for the proposed IP amendment text.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects both the LUP and IP components of the Santa Cruz County LCP. The standard of review for LUP amendments is that they must be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

LUP Consistency Analysis

Coastal Act Section 30213 protects existing lower-cost visitor accommodations and encourages the provision of new lower-cost visitor accommodations (and other recreational facilities):

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.
[...]*

While not the standard of review, Coastal Act Section 30604(f) encourages affordable housing and prohibits local governments and the Commission from reducing bonus densities for affordable housing projects, as long as those projects are otherwise in conformity with the certified LCP (subject to a narrow exception for non-conformity with the Coastal Act or LCP). Coastal Act Section 30604(f) states:

The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require

measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

The proposed LUP amendments (see **Exhibit 1**) are intended to recognize the new PRH district, and allow for it within limited and appropriate land use designations to provide additional affordable housing opportunities while protecting visitor-serving uses, such as lower-cost visitor accommodations as is required by Coastal Act Section 30213. The proposed LUP amendments would limit the PRH combining district to residentially and commercially designated parcels (see proposed LUP Policies 2.11.2 and 2.12.4 in **Exhibit 1**). One of the LUP's commercial designations however, the Visitor Accommodations (C-V) designation, is intended for visitor accommodations. The LUP, as proposed, would allow the PRH combining district within C-V designated parcels, which could lead to sites designated for visitor accommodations being used as PRH (i.e., the conversion of visitor accommodations use to residential use), raising consistency issues with Coastal Act Section 30213, which requires that low-cost visitor accommodations be protected, as reflected in the fact that the LCP designates visitor accommodations as a priority use. Thus, the PRH combining district is not appropriate for the C-V designation. Accordingly, staff recommends **Suggested Modifications 1 & 2** to ensure that the PRH combining district cannot be added to parcels designated C-V. The proposed LUP amendments, as modified, therefore ensure that the PRH combining district is appropriately placed on parcels designated for residential or commercial uses and *not* on parcels designated for visitor-serving uses. The proposed LUP amendments also include changes to existing policies to further clarify that parcels designated for visitor-serving uses shall be maintained as such. Specifically, the proposed amendments to LUP Policy 2.16.19 clarify that any hotels/motels zoned "Visitor Accommodation" or "Tourist Commercial" shall not be converted to other uses.

The proposed amendments also update LUP Policy 2.16.19 to be consistent with other existing LUP Policies that prohibit the conversion of higher-priority uses to lower-priority uses, thus also meeting the intent of Coastal Act Section 30213, to protect lower-cost visitor-serving facilities. Specifically, existing LUP Policy 2.16.19 prohibits the conversion of visitor accommodations to "non-priority" uses; however, because residential is listed as a "third priority" use under LUP Policy 2.22.1 as opposed to a "non-priority" use, the existing policy may erroneously be interpreted to allow for the conversion of a visitor-serving use to a residential use. In other words, the proposed update to LUP Policy 2.16.19 eliminates this potential confusion around the term "non-priority" and more broadly limits the ability to convert visitor accommodations to any lower-priority use.

Finally, the proposed LUP amendments also eliminate language in existing LUP policy 2.16.9 requiring that 15% of units shall be reserved for lower or moderate income households. This change is in response to recent case law (*Palmer Sixth Street Properties v. City of Los Angeles* 2009), which upheld that inclusionary housing requirements for rental housing effectively means setting rental rates, therefore violating the Costa-Hawkins Rental Housing Act.

In sum, **Suggested Modifications 1 & 2**, ensure that the PRH combining district is not placed on parcels designated for visitor accommodations (C-V), thereby protecting parcels designated for higher-priority visitor-serving uses, including lower-cost accommodations, from being converted to lower-priority residential uses. Therefore, with these additions, the LCP amendment is adequate to carry out Section 30213 of the Coastal Act.

IP Amendment Consistency Analysis

The Santa Cruz County LUP, if as amended above, including with Commission staff's suggested modifications, includes policy language that protects the conversion of visitor accommodations to residential uses; allows for the PRH combining district overlay within residential and commercial land use designations (aside from the "Visitor Accommodations" land use designation); prioritizes coastal-related development; and protects residential units for low and moderate income individuals:

LUP Policy 2.11.2 Density Allowance for Permanent Room Housing Combining District
Regardless of residential land use designation, on properties within the "Permanent Room Housing" Combining District, allow existing densities at the time of rezoning to remain, consistent with an approved Use/Development Permit.

LUP Policy 2.12.4 Permanent Room Housing Uses in Commercial Designations
Regardless of commercial land use designation, with the exception of the Visitor Accommodations Designation (C-V) in the coastal zone, allow 100% residential use on properties within the "Permanent Room Housing" Combining District.

LUP Policy 2.16.9 Conversion of Visitor Accommodations to Residential Use
Prohibit conversion of visitor accommodations in the coastal zone to any lesser priority use unless it is demonstrated that it is economically infeasible to use the property for higher-priority use. Absolutely prohibit the conversion of hotels or motels with "Visitor Accommodation" or "Tourist Commercial" zoning and/or a "Visitor Accommodations" land use designation in the coastal zone. Require any visitor accommodations that are converted to a permanent occupancy residential use to conform to applicable General Plan and LCP Land Use Program policies and comply with requirements of the Permanent Room Housing (PRH) Combining District and all conditions of approval of the Use/Development Permit for the PRH use where applicable.

LUP Objective 2.22 Coastal Dependent Development
To ensure priority for coastal-dependent and coastal-related development over other development on the coast.

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone
Maintain a hierarchy of land use priorities within the Coastal Zone:
First Priority: Agriculture and coastal-dependent industry
Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.
Third Priority: Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses

Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

LUP Policy 2.23.1 Lower and Moderate Income Housing in the Coastal Zone

Restrict conversion or demolition of existing residential units occupied by persons or families of lower or moderate income, unless provision has been made for replacement of those units. Replacement units shall be available to persons of lower or moderate income, and if the units which are converted or demolished are in the Coastal Zone, replacement units shall be located elsewhere within the Coastal Zone, if feasible.

The proposed IP amendment (see **Exhibit 2**) provides for the new PRH combining district, which is intended to recognize properties that were formerly used as residential care facilities, nursing homes, visitor accommodations, and other transient accommodations that have over time converted to permanent residential occupancy. The proposed amendment would also allow the PRH combining district overlay to be applied to other properties in the future, subject to an LCP amendment. The amendment language specifies that the intent of the PRH combining district is to “preserve safe housing that is affordable by design and often occupied by low- and moderate-income residents who live or work in Santa Cruz County” (see page 3 of **Exhibit 2**; proposed IP Section 13.10.425). The proposed amendment fulfills the intent of LUP Policy 2.23.1, which prohibits the conversion of units occupied by lower and moderate income individuals and families by creating a pathway for legalization of existing² converted lower and moderate income units. In terms of the application of the PRH combining district within the coastal zone, the PRH combining district is proposed to be added to two parcels, which will necessitate a separate LCP amendment process following certification of this LCP amendment. These parcels include 165 East Street and 222 Santa Cruz Avenue, both of which are in the unincorporated community of Aptos, and are zoned RM-3 and RM-1.5 (multi-family residential) respectively, and designated R-UH (Urban High Density Residential). They meet the criteria for PRH because they were once used for visitor accommodations despite the residential zoning; however, these sites have been used as housing for an extended period of time. Adding the PRH combining district to these two parcels would allow for higher-density housing compared to the existing zoning, thereby legalizing and preserving these “affordable” residential units.

The proposed IP amendment also implements the LUP, as amended and modified, by allowing the PRH combining district in residentially zoned districts and commercially zoned districts,

² The proposed LCPA is intended to recognize units that have already converted; however, there is the possibility that the PRH district could be used to facilitate the conversion of additional units to PRH, but such conversion would only take place outside of the coastal zone because only four parcels within the coastal zone are eligible for the PRH combining district (i.e., the parcels meet all of the PRH overlay criteria, including that they are not zoned VA or CT, do not have a C-V land use designation, and are not actively used as visitor accommodations). These properties include the two that will be moving forward with an LCP amendment to add the PRH combining district overlay (i.e., 222 Santa Cruz Avenue and 165 East Street in Aptos), upon certification of this LCP amendment, and two additional properties, namely 163 East Street (in Aptos) and 2-2980 East Cliff Drive (in the unincorporated Live Oak area of Santa Cruz County).

with the exception of those intended to serve visitors including for lower-cost accommodations³ including specifically the VA (Visitor Accommodations) and CT (Tourist Commercial) zones. The amendment includes language reiterating that any parcel that seeks to add the PRH combining district will be subject to the LUP policies that prohibit the conversion of higher-priority uses to lower-priority uses (and which further stipulate that visitor-serving commercial is a second-priority use and residential is a third-priority use). In other words, the proposed IP amendment adequately fulfills the LUP by limiting the PRH combining district to various residential, commercial, and mixed-use zoning districts that do not serve visitors, including for the purposes of lower-cost overnight accommodations.

The proposed IP amendment includes standards for the PRH combining district, and appropriately limits the overlay to non-visitor-serving zoning districts in order to prevent the conversion of visitor-serving uses within the coastal zone, while providing for additional affordable housing opportunities. For these reasons, the proposed IP amendment is consistent with the certified LUP, including as modified above.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

Santa Cruz County adopted a Notice of Exemption (Statutory Exemption 15061(b)(3)) for the proposed LCP amendment, finding that there is no possibility that the proposed amendments may have a significant effect on the environment, and thus the proposed amendment is not subject to CEQA. Specifically, the County found that the proposed amendments are not associated with any specific parcel at this time (i.e., each parcel would be rezoned at a later date, which would be subject to its own LCP amendment), and additionally, all of the units proposed to be rezoned in the coastal zone at this time are already in use as permanent room housing (i.e., any future amendments would only recognize existing on-the-ground uses). This report has discussed the relevant coastal resource issues with the proposal. No public comment has been received to date. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or 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).

³ The proposed IP amendments would also allow for PRH within the SU zoning district; however, because there is no corresponding Land Use designation for the SU zoning, no changes to the LUP were necessary to allow the PRH within the SU zoning district.