

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



Th13a

DATE: February 21, 2019

TO: Commissioners and Interested Persons

FROM: Steve Hudson, Deputy Director
Barbara Carey, District Manager
Deanna Christensen, Supervising Coastal Program Analyst
Michelle Kubran, Coastal Program Analyst

SUBJECT: County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-18-0071-2-Part B (Accessory Dwelling Units), for public hearing and Commission action at the Thursday, March 7, 2019 Commission Hearing in Los Angeles.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **deny** the proposed County of Santa Barbara Implementation Plan Amendment No. LCP-4-STB-18-0071-2-Part B as submitted, and **approve** the proposed amendment with 2 suggested modifications. The motions to accomplish this recommendation are found starting on **Page 4** of this staff report.

The County of Santa Barbara is requesting an amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of its certified Local Coastal Program (LCP) to regulate accessory dwelling units (ADUs) consistent with state law. The subject amendment would add and revise definitions for terms related to ADUs and add new provisions and development standards regarding ADU permitting and development ([Exhibit 2](#)). Currently, Santa Barbara County's LCP allows for the development of residential second units (RSUs) within three residential zones and one agricultural zone. The proposed amendment would delete all references and regulations specific to RSUs and revise other regulations that would continue to apply to ADUs. The proposed amendment would also expand where accessory dwellings would be allowed within the County to all zone districts where single-family or multi-family dwellings are allowed, which is all residential and agricultural zones as well as one commercial zone and two resource management zones within the County. ADUs would be regulated based on zoning district and whether the unit is proposed within an existing or new structure or addition. The proposed amendment includes development standards, such as living area and height limits, parking standards, and tree protection standards. A coastal development permit (CDP) would be required for ADUs, although the CDP would not require a public hearing (consistent with Government Code section 65852.2(j)).

The proposed amendment includes development standards related to environmentally sensitive habitat areas (ESHA), such as requirements for exterior lighting and consistency with the IP/CZO's existing ESHA overlay district. However, these proposed standards do not require consistency with all exterior lighting or ESHA protection policies of the LCP, and such standards

may be more or less specific depending on where within the County an ADU is proposed. There are several area-specific plans that are components of the County's certified Coastal Land Use Plan, such as the Gaviota Coast Plan and the Montecito Community Plan, and these plans contain more specific and sometimes more protective standards than the general standards of the Land Use Plan or IP/CZO. Further, the proposed amendment includes development standards regarding native vegetation and tree protection. However, these proposed standards are not consistent with all existing ESHA and tree protection policies in the certified LCP either. Therefore, Suggested Modification 1 ([Exhibit 1](#)) is necessary to clarify that not only must ADUs be consistent with the existing ESHA and native vegetation and tree protection policies of the certified LCP but that the most protective standards apply depending on where within the County the ADU is proposed.

Similarly, the amendment proposes standards regarding protection of agricultural resources. However, the proposed standards, which qualify that ADU development shall "minimize impacts to ongoing agriculturally-related activities and shall avoid prime soils to the maximum extent feasible" is not consistent with Section 30241 of the Coastal Act as incorporated into the certified LUP. Coastal Act Section 30241 requires the maximum amount of prime agricultural land to be preserved without any consideration of feasibility. Therefore, Suggested Modification 1 is necessary to remove this standard from the proposed amendment in order for the amendment to be consistent with the agricultural policies and provisions of the Coastal Act as incorporated in the certified LUP.

Further, the proposed amendment would potentially allow for approval of an ADU in any existing accessory structure even if that existing accessory structure is nonconforming with regards to the coastal resource protection policies and provisions of the LCP. Allowing the conversion of an existing nonconforming structure to an ADU could potentially extend the life of the structure as well as change the intensity of use of the structure and surrounding area, which could significantly impact coastal resources if the nonconforming structure is within a sensitive coastal resource area. Therefore, Suggested Modification 1 prohibits the conversion of existing nonconforming accessory buildings to ADUs if the nonconforming accessory building is inconsistent with any of the coastal resource protection policies of the certified LCP.

Finally, Suggested Modification 1 is necessary to make a minor change to the proposed amendment regarding processing requirements for coastal development permit applications for ADUs, and Suggested Modifications 1 and 2 are necessary to make additional minor corrections and clarifications.

<p>Additional Information: Please contact Michelle Kubran at the South Central Coast District Office of the Coastal Commission at (805) 585-1800 or 89 South California Street, Suite 200, Ventura, CA 93001</p>

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[Exhibit 1 – Suggested Modifications to the proposed Coastal Zoning Ordinance amendment](#)

[Exhibit 2 – Santa Barbara County Ordinance No. 5057 containing the proposed Coastal Zoning Ordinance text](#)

I. PROCEDURAL OVERVIEW

A. STANDARD OF REVIEW

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...(Section 30513)

...The Commission may only reject zoning ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out together with its reasons for the action taken...(Section 30513)

The Commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the commission, shall be deemed approved upon confirmation by the executive director...(Section 30513)

Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513... (Section 30514(b))

Pursuant to Section 30512(c), the standard of review for the proposed amendment to the County's certified IP/CZO, pursuant to Sections 30513 and 30514(b) of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the County's certified LCP. Additionally, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the County's certified LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. Santa Barbara County held eight public hearings regarding the ADU ordinance amendment between March 22, 2017 and August 14, 2018. All County hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment was posted in a local newspaper at least ten days prior to the March 7, 2019 Coastal Commission hearing, and individual notices have been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of the California Code of Regulations, the County resolution for submittal of the LCP amendment can either require formal local government adoption after Commission approval, or designate that an amendment will take effect automatically upon Commission approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. However, if the Commission approves this amendment with any modifications, the County must act to accept the certified suggested modifications within six months from the date of Commission action for the amendment to become effective (CCR Sections 13544.5 and 13537). Pursuant to Section 13544 of the California Code of Regulations, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission **reject** Implementation Plan Amendment No. LCP-4-STB-18-0071-2-Part B as submitted by the County of Santa Barbara.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan 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.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED:

The Commission hereby **denies** certification of the Implementation Plan Amendment No. LCP-4-STB-18-0071-2-Part B submitted for the County of Santa Barbara and adopts the findings set forth below on the grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the 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 Amendment as submitted.

B. APPROVAL WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission **certify** Implementation Plan Amendment No. LCP-4-STB-18-0071-2-Part B for the County of Santa Barbara if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the Implementation Plan Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby **certifies** Implementation Program Amendment No. LCP-4-STB-18-0071-2-Part B for the County of Santa Barbara if modified as suggested and adopts the findings set forth below on the grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. 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 Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

III. FINDINGS FOR DENIAL AS SUBMITTED, & APPROVAL OF THE AMENDMENT, IF MODIFIED AS SUGGESTED

The following findings support the Commission's approval of the Implementation Plan amendment as suggested to be modified. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION AND BACKGROUND

California Government Code Section 65852.2, related to land use and second units, was amended by the state legislature through Assembly Bill 2299 (Bloom) and Senate Bill 1069 (Wiekowski) to modify requirements regarding accessory dwelling units (ADUs) with the goal of increasing statewide availability of smaller, more affordable housing units. The County of Santa Barbara is requesting an amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of its certified Local Coastal Program (LCP) to regulate accessory dwelling units consistent with state law. The subject amendment would add and revise definitions for terms related to ADUs and add new provisions and development standards regarding ADU permitting and development ([Exhibit 2](#)).

Currently, Santa Barbara County's LCP allows for the development of residential second units (RSUs) within three residential zones (Single-Family, One-Family Exclusive, and Rural Residential) as well as one agricultural zone (Agriculture I). The proposed amendment would delete all references and regulations specific to RSUs and revise other regulations that would continue to apply to ADUs. The proposed amendment would also expand where accessory dwellings would be allowed to any zone district where single-family or multi-family dwellings are allowed. Specifically, the amendment proposes to allow ADUs in all agricultural zones (Agriculture I, Agriculture II), all residential zones (One-Family Exclusive, Single Family, Two-Family, Design Residential, Planned Residential Development, Rural Residential, Medium Density Student Residential, High Density Student Residential), two resource management zones (Mountainous Area – Toro Canyon Planning Area, Resource Management), and one commercial zone (Limited Commercial).

The County's proposed amendment would regulate ADUs under three different categories. The first category applies to ADUs on lots zoned for single-family residences that are built within existing single-family dwellings or accessory buildings. This category of ADU does not require additional parking to be provided, and there is no maximum size limit for this ADU type. The second ADU category applies to ADUs within existing buildings on lots zoned for uses other than single-family residential and ADUs on single-family zoned lots that do not otherwise comply with the standards in the first category. Under the second ADU category, the maximum living area of an ADU is 1,200 sq. ft. Additional off-street parking is also not required under the second ADU category. The final ADU category applies to ADUs that are partially or entirely within new structures (i.e., additions or new, detached buildings). The maximum living area for

this type of ADU is 1,200 sq. ft., and one off-street parking space is required for ADUs within new, detached buildings. Consistent with Government Code Section 65852.2, the off-street parking requirement would not be required if the ADU is within one-half mile of transit, is located in a historic district, when on-street parking permits are required but are not offered to the occupant, or when there is a car share vehicle within one block of the ADU.

A coastal development permit (CDP) would be required for all ADUs, although the CDP would not require a public hearing (consistent with Government Code section 65852.2(j)). The proposed amendment also includes development standards, such as height limits, requirements for exterior appearance and style for ADUs in new buildings and additions, yard setbacks, tree protection standards, and required consistency with coastal resource protection policies of the LCP, among other standards.

B. NEW DEVELOPMENT

Pursuant to Sections 30513 and 30514 of the Coastal Act, the standard of review for the proposed amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) portion of the certified LCP is whether the proposed amendment would be in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP) component of the certified LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Section 30250, in relevant part, states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Section 30250(a) of the Coastal Act requires new development to be sited within, contiguous with, or in close proximity to existing development and where the development would not have significant adverse impacts on coastal resources. To ensure that new development is consistent with Section 30250 of the Coastal Act (incorporated by reference into the certified LUP), the siting and design of new development must adhere to the requirements of other applicable policies of the certified LUP. Such policies include, but are not limited to, policies and provisions regarding protection of agricultural productivity, environmentally sensitive habitat areas, public access, and visual resources.

The proposed amendment would allow for accessory dwelling units in 13 zone districts, creating the potential for increased development throughout Santa Barbara County, which in turn increases the potential for occurrence of impacts to coastal resources, including impacts to public access. New development that does not require adequate off-street parking can displace on-street parking and impact public access to the coast. As stated above, the proposed amendment only requires additional off-street parking to be provided for ADUs within new, detached buildings unless the proposed ADU meets one of the criteria where additional off-street parking would not

be required. However, Sections 35-105 and 35-106 of the certified IP/CZO provide that if required parking is eliminated or converted, equivalent facilities (i.e., the same number of parking spaces) must be provided elsewhere on the lot. For example, if an existing garage associated with a principal dwelling is converted to an ADU, thereby removing required parking spaces, the number of required spaces for the principal dwelling must be replaced on site. The proposed amendment would not change these existing standards and, therefore, would not have a significant impact on public access and is consistent with the existing public access policies and provisions of the LCP.

The Commission's recent guidance to local governments regarding the new accessory dwelling unit legislation clarifies that ADU provisions in LCPs should be consistent with the new requirements of Government Code Section 65852.2 to the greatest extent feasible while still protecting coastal resources, including wetlands and sensitive habitat, and considering the appropriate siting of development along the shoreline, as well as ensuring the safety of new ADUs and their occupants. To provide protection for coastal resources, such as environmentally sensitive habitat areas (ESHA), the proposed amendment requires ADUs within additions or new buildings to be consistent with the exterior lighting requirements of Section 35-139 of the IP/CZO and the requirements of the ESHA overlay district in Section 35-97. However, the County's certified LCP contains community and area plans as well as overlay districts for particular areas within the County that include more specific, and sometimes more protective, standards regarding exterior lighting, ESHA, and ESHA buffers than the general standards in Sections 35-139 and 35-97. Therefore, Suggested Modification 1 ([Exhibit 1](#)) is necessary to include reference to those sections of the certified LUP and IP/CZO to clarify that, depending on where the ADU is located, the most protective standards of the LCP would apply.

Further, the subject amendment proposes to require ADUs in new, detached buildings or additions that are located on agriculturally zoned land to "preserve natural features, landforms, and native vegetation such as trees to the maximum extent feasible." This standard already exists as part of Policy 3-14 in the certified LUP, but as a stand-alone provision, the proposed standard is vague. Native vegetation often indicates the presence of ESHA, and as such, may trigger the applicability of Section 30240 of the Coastal Act (incorporated by reference into the certified LCP) as well as the ESHA policies of the LCP. Section 30240 and the LCP's ESHA policies require protection of ESHA habitat values without consideration of feasibility. Additionally, if a proposed ADU has the potential to impact ESHA, the existing ESHA policies and provisions of the certified LCP would apply. Therefore, Suggested Modification 1 is necessary to remove this standard from the amendment to clarify that ADUs must be consistent with the existing ESHA and native vegetation protection policies of the certified LCP.

The proposed amendment also includes a standard to site ADUs in order to "minimize impacts to ongoing agriculturally-related activities and shall avoid prime soils to the maximum extent feasible." This proposed standard, however, does not meet the requirements of Coastal Act Section 30241, as incorporated by reference into the certified LUP, which requires the maximum amount of prime agricultural land to be preserved without any consideration of feasibility. The County's LCP also contains additional policies and provisions regarding the protection of coastal agriculture and standards for agricultural development. Therefore, Suggested Modification 1 is necessary to remove this standard from the proposed amendment in order for the amendment to

be consistent with the agricultural policies and provisions of the certified LCP, including incorporated Coastal Act policies.

Additionally, the subject amendment includes provisions regarding the location of new ADU buildings. The provisions state that the location of a detached ADU is not restricted on lots that are larger than 20 acres as long as the proposed ADU complies with applicable zoning requirements. This provision implies that an ADU could be sited a considerable distance from the existing principal dwelling or other structures, which could result in separate impacts from the residential use of the site as well as separate impacts as a result of the fuel modification requirements for each development envelope. Section 30250 of the Coastal Act, as incorporated into the certified LUP, requires development to be within, contiguous with, or in close proximity to existing developed areas in order to avoid such impacts. Therefore, Suggested Modification 1 requires new, detached ADUs to be clustered with other existing structures to the maximum extent feasible in order to reduce impacts to ESHA or other coastal resources from fuel modification, noise, lighting, and other disturbances that result from human presence and use of a site.

In addition to the other standards and provisions of the subject amendment, the County has proposed to include a standard to protect individual trees, such as oaks, sycamores, and willows. Section 30251 of the Coastal Act, as incorporated into the certified LUP, requires new development to be visually compatible with the character of the area. Mature trees, especially native trees, are an important component of the visual character of an area and must be protected in order to ensure that new development is compatible with that visual character. Additionally, native trees shall be protected when they are part of a larger habitat designated as ESHA. The certified LUP, including the Eastern Goleta Valley Community Plan and the Gaviota Coast Plan, include similar tree protection standards. Therefore, in order for the proposed amendment to be consistent with the certified policies of the LUP, Suggested Modification 1 requires that either the proposed standard or the applicable community plan standard, whichever is more protective, is followed. Further, the proposed standard requires removal or damage of protected trees to be avoided to the maximum extent feasible but does not require mitigation if removal or damage is unavoidable. Therefore, Suggested Modification 1 is necessary to require mitigation for native tree removal or damage as consistent with the existing policies of the certified LCP.

The proposed amendment would also allow for ADUs to be permitted in existing accessory structures but does not include any limitations on the type or location of the existing structure. Thus, a proposed ADU could potentially be allowed in any existing accessory structure, even if that structure is nonconforming with regards to the coastal resources policies and provisions of the LCP. Currently, the certified LCP prohibits structural alteration, which is defined as “any change in the supporting members of a building or structure, such as bearing walls, column beams or girders or in the dimensions or configuration of the roof,” of nonconforming structures if the nonconforming structure or the structural alteration is inconsistent with any of the coastal resource protection policies and provisions of the LCP. However, if conversion of a nonconforming accessory structure to an ADU does not require structural alteration, under the existing policies and provisions of the LCP such a conversion would be allowed. But allowing conversion of a nonconforming accessory structure to an ADU could potentially extend the life of the structure as well as change the intensity of use in sensitive coastal resource areas, such as

riparian corridors or bluff faces. Therefore, Suggested Modification 1 prohibits the conversion of existing nonconforming accessory buildings to ADUs if the nonconforming accessory building is inconsistent with any of the coastal resource protection policies of the certified LCP. Conversion of an existing nonconforming accessory building to an ADU may still be allowed if the accessory building is nonconforming with regards to other standards of the LCP that are unrelated to coastal resource protection, for example, a side yard setback standard that is unrelated to bluff hazards or ESHA.

Finally, the proposed amendment includes application and processing requirements for proposed ADUs and states that an application for a coastal development permit for an ADU shall be considered ministerially without discretionary review or hearing. However, CDPs are discretionary approvals and cannot be approved ministerially. Likewise, many of the proposed standards that would apply to ADUs, as well as existing LCP standards that would also apply, are ones that require the County decision maker to use discretion when implementing them. Accordingly, applying these standards cannot be considered a ministerial act. However, Government Code Section 65852.2 requires CDP approvals for ADUs to be processed without a public hearing. Therefore, Suggested Modification 1 changes the proposed language regarding ministerial review to simply state that an application for a CDP for an ADU shall be considered without a hearing. Suggested Modifications 1 and 2 are also necessary to make additional minor edits and clarifications to the proposed amendment.

For all of the reasons stated above, the Commission finds that the Implementation Plan/Coastal Zoning Ordinance amendment, only as suggested to be modified, conforms with and is adequate to carry out the coastal resource protection policies of the certified Land Use Plan.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local governments 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 (LCP). 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, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives 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. §§ 13540(f) and 13555(b).

The County's LCP amendment consists of an IP amendment. As discussed above, the IP amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the LUP. The Commission has, therefore, suggested modifications to the proposed IP

to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP amendment into conformity with the LUP consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts, and the proposed IP amendment conforms with CEQA.