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# W14a

**Prepared February 22, 2019 for March 6, 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-18-0095-3  
(Residential Density)**

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## SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County proposes to amend its Local Coastal Program (LCP) to update its Implementation Plan (IP) related to higher density residential development in an effort to increase housing units in Santa Cruz County. The proposed amendment includes changes to IP Chapters 13.01 and 13.10 related to residential density bonuses and the Regional Housing Need Combining District (“R”) overlay (both designed to facilitate higher density housing), and it is mostly meant to clarify existing IP language in that respect, but it also includes adding the “R” overlay to the LCP’s Zoning Implementation Table. The LCP’s Zoning Implementation table identifies LCP Land Use Plan (LUP) designations (and criteria) and the implementing IP zoning designations for each land use, and allows changes between differing zoning designations for any particular land use designation to occur without an LCP amendment (e.g., changing from C-1 to C-2 when a property is LUP-designated as Community Commercial).

In general, the proposed changes are refinements that should improve LCP clarity regarding the LCP’s residential density bonus and “R” district tools, and will continue the LCP’s existing framework that encourages the provision of housing (including higher density housing, and preferably affordable housing) in a manner that protects coastal resources. For example, in order to approve a higher density residential project with a density bonus or on a site with the “R” overlay, the LCP requires a finding that the project is otherwise consistent with the LCP and has no adverse impacts on coastal resources. These LCP requirements are unchanged here, and the amended LCP should serve to continue to encourage appropriate housing development, including to help increase overall housing stock (and affordable units) in the County’s coastal zone, in a manner that protects the County’s rich coastal resources.

However, certain modifications are needed to clarify certain concepts and processes related to the “R” overlay. First, with respect to which zoning districts are eligible for the overlay, the County has indicated its intent was to have it only apply to the R-M-2, C-1, C-2, PA, and PF

zone districts.<sup>1</sup> However, the proposed amendment inadvertently lists *all* commercial zones as potentially eligible, which was not the County’s intent, and which could also potentially lead to inappropriate conversion of certain key commercial zones (e.g., those that are slated for visitor-serving development and uses, such as the visitor accommodations (VA) commercial district) inconsistent with the LCP. A modification is thus required to specify that only the C-1, C-2, and PA commercial zoning districts (districts that already allow for residential development in certain circumstances) are eligible for the “R” overlay. The County is in agreement with this change.

Second, the proposed amendment raises questions about the process by which the “R” overlay would be applied to any particular parcel. As indicated, the County proposes to add the “R” overlay to the LCP’s Zoning Implementation Table, and to identify the overlay as consistent with and appropriate to carry out any situation where a 20-unit per acre density is proposed or desired in that table. In addition, because the table expressly identifies situations where changing zoning as directed in the table does *not* require an LCP amendment, its inclusion in the table stands for the premise that the “R” overlay could be applied without an LCP amendment. However, per the language of the “R” overlay ordinance itself, adding an “R” overlay to any particular property *does* require an LCP amendment (including through the LCP’s Planned Unit Development (or PUD) requirements), which creates an internal LCP inconsistency. In addition, in the course of reviewing the required LCP amendment, the “R” entry in the table could be read and/or argued to have pre-judged a conclusion that adding such overlay is appropriate in any such case. By inserting the language in the table in this way, the discretion that accrues to both the County Board of Supervisors and the Commission with respect to the appropriateness of adding an “R” high density residential overlay to a given proposed property could be compromised.

To resolve any concerns that the “R” overlay’s inclusion in the Zoning Implementation Table may prejudice any future LCP amendment analysis regarding the overlay’s consistency with underlying land use and zoning designations and its appropriateness for the proposed site (including with respect to impacts to coastal resources), Commission staff has worked with County staff to develop additional clarifying language. The additional text further clarifies that the concurrent PUD/ LCPA process will analyze whether residential density at 20 units per acre is appropriate at the site for which it is proposed. Specifically, the proposed amendment is modified to clarify that proposals to add the “R” overlay to a property are subject to the LCP’s required findings for a zoning plan amendment, including that the proposed zone district will allow a density of development and types of uses that are compatible with the objectives, policies, and programs, and land use designations, and that the rezoning conforms with, and is adequate to carry out, the coastal resource protection provisions of the certified Land Use Plan. This additional language makes it clear that the joint PUD/LCPA process to add the “R” overlay to a property will serve as the process for determining whether the “R” overlay is appropriate for the proposed site (including whether it meets all of the necessary findings for consistency with the land use/zoning designations) rather than the “R” overlay being “pre-approved” simply due to its inclusion in the Zoning Implementation Table. Commission staff has worked cooperatively with County staff on this LCP amendment, and the County is in agreement with the additional

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<sup>1</sup> R-M-2 is the LCP’s multi-family residential district, C-1 is the neighborhood commercial district, C-2 is the community commercial district, PA is the professional and administrative offices district, and PF is the public and community facilities district.

proposed language.

As modified, the proposed amendment is consistent with and adequate to carry out the Coastal Act and LUP. Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 5 below.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on February 8, 2019. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline is May 7, 2019. Thus, unless the Commission extends the action deadline (it may be extended by up to one year per the Coastal Act), the Commission has until May 7, 2019 to take a final action on this LCP amendment.

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### **EXHIBITS**

Exhibit 1: Proposed IP Amendment (Strikethrough and Underline)

Exhibit 2: Applicable Land Use Plan Policies

## I. MOTIONS AND RESOLUTIONS

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

### A. Deny the IP Amendment as submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the IP amendment as submitted and adoption of the following resolution. 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-18-0095-3 as submitted by the County of Santa Cruz.*

***Resolution:** The Commission hereby denies certification of Implementation Plan Major Amendment Number LCP-3-SCO-18-0095-3 as submitted by the County of Santa Cruz and adopts the findings set forth below on grounds that the Implementation Plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation 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 Implementation Plan amendment as submitted.*

### B. Certify the IP 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 Commissioners present.

***Motion:** I move that the Commission certify Implementation Plan Major Amendment Number LCP-3-SCO-18-0095-3 if it is modified as suggested in this staff report.*

***Resolution:** The Commission hereby certifies Implementation Plan Major Amendment Number LCP-3-SCO-18-0095-3 to the County of Santa Cruz Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report 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. 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 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 Implementation Plan amendment if modified.*

## 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 each of the suggested modifications within six months of Commission action (i.e., by September 6, 2019), 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. (14 California Code of Regulations Sections 13542-43.) Where applicable, text in ~~cross-out~~ format and text in underline format denotes proposed text to be deleted/added by the County<sup>2</sup>. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

### 1. Modify Zoning Implementation Table 13.10.170 as follows:

Other Designation or Condition:	
<u>Special use and development standards for development of housing at density of 20 units per acre</u>	<u>R--Regional Housing Need Combining District with any RM -2 zoned parcel, <del>or in commercial</del> in C-1, C-2, or PA commercial zones, or public facilities zones.*</u>

\* Property that is proposed for rezoning into the Regional Housing Need R Combining District shall include a proposed PUD, and an LCPA if located within the Coastal Zone pursuant to 18.10.184 (C & D).

### 2. Modify Implementation Plan Section 13.10.476(B) as follows:

13.10.476(B):

Property that is proposed for rezoning into the Regional Housing Need R Combining District shall include a proposed PUD, and an LCPA if located within the Coastal Zone pursuant to 18.10.184 (C & D). The PUD application made at the time of the rezoning to add the R-Combining District shall include the development envelope and information on the massing, height, and intensity of development sufficient to perform environmental review under the California Environmental Quality Act (CEQA) at the Program level of detail for the proposed use, but is not required to address every aspect of the PUD application under Chapter 18.10, which may then be subject to Project-level CEQA review. The provision of housing at a density of 20 units/acre shall be deemed a specific benefit adequate to satisfy the finding for approval described in SCCC 18.10.183 (B)(3). Proposals to add the R-Combining District to a property are subject to the required findings for a zoning plan amendment set forth in 13.10.215(D).

<sup>2</sup> Although the proposed amendment appears to suggest substantial changes given the amount of strikethrough and underline shown in Exhibit 1 (including entirely new IP sections), most of this text already existed in the IP. The text has simply been reworded somewhat, reformatted, and relocated to different sections of the IP.

**3. Modify Implementation Plan Section 13.10.476(D) as follows:**

(D) In the coastal zone, the Regional Housing Need R-Combining District shall only be applied to the RM-2, C-1, C-2, PA, and PF zoning districts. If a coastal permit or tentative map approval is required, it must be included in the application.

(1) Coastal Permit Requirements. Where a site is located in the Coastal Zone and requires a coastal permit for development, the provisions of Chapter 13.20 SCCC apply. Wherever possible, the environmental review performed at the time the site was designated under the Regional Housing Need R Combining District will be utilized in the processing of the coastal permit.

### **III. FINDINGS AND DECLARATIONS**

#### **A. DESCRIPTION OF PROPOSED LCP AMENDMENT**

The proposed amendment would update Implementation Plan (IP) sections related to affordable housing and high density housing incentives, including residential density bonuses and the Regional Housing Need “R” Combining District overlay (“R” overlay). Generally, the proposed amendments do not introduce new policy concepts, but rather serve as a “clean-up” of existing housing regulations and incentives via eliminating erroneous, inconsistent, and redundant language, and adding language further clarifying existing regulations.

More specifically, the proposed amendment seeks to amend IP Chapters 13.01 and 13.10 related to affordable housing requirements, including the residential density bonus and the “R” overlay. The residential density bonus provisions implement State density bonus law by allowing for an increase in otherwise allowable density when a certain percentage of proposed units are affordable. The “R” overlay is an existing County housing zoning overlay/combining district that requires higher density housing at 20 units per acre for specifically designated parcels, subject to specific criteria and findings. The proposed amendments retain the overall tenets of the IP’s housing regulations, and merely update certain terms and requirements. For example, the proposed amendment updates the Zoning Implementation Table to include the “R” overlay as a type of zoning overlay/combining district (it is an existing overlay, but was not reflected in the table) and to specify which zoning districts are eligible for the overlay, specifically the R-M-2 (Multi-family residential), commercial, and PF (Public Facilities) zoning districts. The proposed amendments also eliminate various redundancies, including changing the definition of the residential density bonus from “Density bonus/incentive zoning” to simply “Density Bonus” in IP Section 13.10.700. The proposed amendments also reiterate that any property proposed for the “R” overlay is also required to complete requirements of a Planned Unit Development (PUD), and that the “R” overlay provides for up to 20 units per acre.

See **Exhibit 1** for the proposed IP amendment text.

## **B. CONSISTENCY ANALYSIS**

### **Standard of Review**

The proposed amendment affects the IP components of the Santa Cruz County LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified Land Use Plan.

### **IP Amendment Consistency Analysis**

#### *Land Use Plan Policies*

The County's LCP includes policies: clarifying the intent of various land use designations; prohibiting the conversion of higher-priority coastal uses (visitor-serving, coastal-dependent, etc.) to lower-priority coastal uses (commercial and residential); recognizing the importance of preserving low- and moderate-income housing in the coastal zone; and ensuring the protection of coastal resources while taking into consideration the social and economic needs of the people of Santa Cruz County. See **Exhibit 2** for the complete list of relevant LUP Policies.

In general, the proposed IP amendments (**Exhibit 1**) adequately implement the LUP policies. As previously discussed, the amendments retain the overall tenets of the housing regulations, including by encouraging the provision of housing in a manner that protects coastal resources (as required by LUP Policies 2.22.1, and 2.22.2, and LUP Objective 2.23 (see **Exhibit 2**)). For example, in order to approve a residential density bonus, the County (or the Commission on appeal) must make the finding that the project, including with the increase in density, is otherwise consistent with the LCP and has no impact on coastal resources (IP Section 13.10.326). Similarly, for the "R" overlay, a finding must be made that the proposed development, including its 20 units per acre density, is consistent with the LCP and has no impact on coastal resources (IP Section 13.10.477(A)(4)). These requirements are retained from the existing regulations and should serve to ably encourage housing production in a manner that protects the County's rich coastal resources, consistent with LUP Policies 2.22.1, and 2.22.2, and LUP Objective 2.23 (see **Exhibit 2**).

However, certain modifications are needed to clarify certain concepts and processes related to the "R" overlay. First, with respect to which zoning districts are eligible for the overlay, the County has indicated its intent was to have it only apply to the R-M-2, C-1, C-2, PA, and PF<sup>3</sup> zone districts. However, the proposed amendment lists *all* commercial zones as potentially eligible, which was not the County's intent, and which could lead to the residential conversion of commercial zones that allow for hotels and other visitor-serving uses, inconsistent with LUP Objectives 2.16 and 2.17 and LUP Policies 2.16.3, 2.16.9, and 2.17.3. A modification is thus required to specify that only the C-1, C-2, and PA commercial zoning districts are eligible for the "R" overlay. Therefore, **Suggested Modifications 1 and 3** clarify that that the "R" overlay can

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<sup>3</sup> The R-M-2 district provides for high-density housing; the C-1 district is the "Neighborhood Commercial" District, which provides for compact and conveniently located shopping and service uses within walking distance from neighborhoods; the C-2 district is the "Community Commercial" District, which provides for concentrated centers for commercial uses; the PA district is the "Professional and Administrative Office District," which provides for a range of administrative and professional offices uses; and the PF district is the "Public Facilities" district, which provides for a range of public facilities including community centers, hospitals, schools, etc.



only be applied to the R-M-2, C-1, C-2, PA, and PF zone districts. These zones are appropriate for the “R” overlay because residential is an allowable use under these zoning districts; these districts generally include mixed-used development; and these districts, unlike the VA (Visitor Accommodations) and the CT (Tourist Commercial), are not geared toward visitor-serving uses, but rather provide for general commercial uses that serve residential neighborhoods.

The amendment also raises questions about the process by which the “R” overlay would be applied to a particular parcel and whether the “R” overlay’s inclusion in the Zoning Implementation Chart may prejudice any future LCP amendment (LCPA) process to add the overlay to a specific parcel (i.e., whether the overlay’s consistency is essentially pre-determined by its inclusion in the Zoning Implementation Chart or if its appropriateness and consistency would be still be analyzed at the time a property is proposed for rezoning). The “R” overlay also includes specific directives for building higher density housing, and thus it is key to ensure through a robust LCPA process that the particular site in question is appropriate for such housing. Suggested modifications are therefore needed to expressly state that an LCPA is required in order to add the “R” overlay to a parcel, including an analysis that the site is appropriate for such high density housing, including in terms of coastal resource impacts. Accordingly, staff recommends **Suggested Modifications 1, 2, and 3**, which explicitly identify that an LCPA is required to add the “R” overlay to properties within the coastal zone, and clarifies the findings that will need to be made during the LCPA process to determine whether or not the “R” overlay is appropriate for the site and consistent with the underlying zoning and land use designations. More specifically, the additional text further clarifies that proposals to add the “R” overlay to a property are subject to the LCP’s required findings for a zoning plan amendment (including that the proposed zone district will allow a density of development and types of uses that are compatible with the objectives, policies, and programs, and land use designations, and that the rezoning conforms with, and is adequate to carry out, the coastal resource protection provisions of the certified Land Use Plan). This additional language makes it clear that the joint PUD/LCPA process to add the “R” overlay to a property will serve as the process for determining whether the “R” overlay is appropriate for the proposed site (including whether it meets all of the necessary findings for consistency with the land use/zoning designations) rather than the “R” overlay being “pre-approved” simply due to its inclusion in the Zoning Implementation Table. The County has actively worked with the Commission on these additional modifications, and is in agreement with them.

### **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 Natural 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 issued a Notice of Exemption for the proposed LCP amendment, finding that

the proposed project is exempt for the following reasons: 1) the proposed amendment is not a project under CEQA Guidelines Section 15378; 2) the proposed amendment is not subject to CEQA as specified under CEQA Guidelines Section 15060(c); and 3) the proposed amendment is exempt from CEQA as specified under CEQA Guidelines Section 15061(b)(3). This report has discussed the relevant coastal resource issues with the proposal, and has recommended specific modifications that are necessary in order to protect coastal resources and make the requisite Land Use Plan consistency findings. 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 amendments would have on the environment within the meaning of CEQA. Thus, the proposed amendments as suggested to be modified will not result in any significant environmental effects for which additional feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).