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Prepared June 21, 2019 (for July 11, 2019 Hearing)

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Brian O'Neill, Coastal Planner

**Subject: San Luis Obispo County LCP Amendment Number LCP-3-SLO-19-0021-2
(Inclusionary Housing Ordinance)**

Proposed Amendment

San Luis Obispo County proposes to modify the Local Coastal Program (LCP) Implementation Plan (IP) to amend Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.096, which comprises the LCP's "inclusionary housing ordinance." This existing certified ordinance, similar to other jurisdictions' inclusionary housing programs, and as mitigation for the impact to the affordable housing stock, requires a percentage of certain development projects to be reserved for affordable housing in one of two ways: either through providing affordable units onsite or offsite, or through payment of an in-lieu fee that is commensurate to the amount of affordable housing that would otherwise be built onsite or offsite. The proposed amendment makes modifications to the types of projects covered under the ordinance, the amount of affordable housing that must be provided in those projects, and makes it clearer that the specific in-lieu fee amount is calculated in accordance to the fee schedule set by the County Board of Supervisors specified in Title 29 of the Municipal Code, which is not specifically included in the LCP.

Specifically, the proposed amendment's changes would make the ordinance's affordable housing requirements applicable to any residential development of one or more dwelling units greater than 2,200 square feet in size. The current ordinance is only applicable to residential development of two or more dwelling units greater than 900 square feet in size. According to the County's analysis, although the amendment increases the size of dwelling units subject to the ordinance, the proposed change will increase the overall number of projects subject to the affordable housing mitigation requirements because the number of units that trigger the mitigation requirement will be reduced from two to one. The County currently collects approximately \$25,000 annually from inclusionary housing impact fees and estimates that this change will lead to an additional \$975,000 annually for a total of one million dollars each year for the construction of affordable housing units. For larger proposed residential developments that provide inclusionary units as part of the proposed project, the amendment would also require such projects to designate a minimum of eight percent of the base units as affordable, rather than the current "phased-in" approach that requires affordable units from one percent in year one to five percent in year five, which was originally implemented during the previous recession to delay the required mitigation to incentivize development. This amendment is also framed as a "pilot program" and includes a provision that requires the Board of Supervisors to reevaluate the

program in three years. The County is currently exploring broad-based funding options, such as a general tax or bond measure, which could potentially provide enough affordable housing funding to eliminate the need for project-based mitigation funding. Should the County implement a broad-based funding mechanism and seek to eliminate project-based mitigation requirements in the future, an LCP amendment would be required to do so, including if the proposal were to eliminate the above-described affordable housing mitigation requirements specified in the inclusionary housing ordinance of the CZLUO. And finally, the proposed ordinance provides additional references to the affordable housing in-lieu fee schedule specified in Title 29. Both the existing certified ordinance and the proposed changes allow for the payment of an in-lieu fee instead of building the units on- or offsite. The fee amount must be commensurate with building an equivalent amount of affordable housing units, but the specific dollar amount, which may vary from time to time depending on labor and construction costs and market conditions, is set by the Board of Supervisors. See **Exhibit 1** for the proposed amendment text.

Minor LCP Amendment Determination

Pursuant to Title 14 of California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is “minor.” 14 CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

14 CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third or more of the appointed members of the Commission request that it be processed as a regular LCP amendment, then the amendment shall be set for a future public hearing; if less than one-third of the appointed members of the Commission object to the minor LCP amendment determination, then the amendment is deemed approved and it becomes a certified part of the LCP.

The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is minor.

The proposed LCP amendment relates solely to the affordable housing mitigation that certain types of development must provide, including expanding the umbrella of projects subject to such requirements and the level of mitigation that must be provided. According to the County’s analysis, the proposed changes will increase the number of projects subject to affordable housing mitigation requirements and will lead to an estimated \$975,000 in additional affordable housing mitigation funds (one million dollars total when added to the \$25,000 in affordable housing mitigation funds already generated annually), on an annual basis. And the County indicates this is a beginning step in better regulating and providing for affordable housing, and is in the process of further evaluation of other future programs. These programs will be submitted to the Commission for inclusion in the LCP in the future. As such, the proposal is a first step in this process that strengthens the affordable housing provisions of the LCP by increasing the number of projects subject to affordable housing mitigation and does not change the kind, location, intensity, or density of use of land for development which is subject to the proposed LCP

amendment (*i.e.*, residential development). Rather, the proposed LCP amendment qualifies under the regulatory definition of a minor LCP amendment as “changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific.” (14 CCR Section 13554(a).)

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. (*See* (Pub. Res. Code Section 21080.5; 14 CCR Section 15251(f).) The County has determined that the project is exempt from further review under CEQA, pursuant to 14 CCR Section 15061(b)(3), “General Rule Exemption.” Specifically, the County found that it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment because the amendment is designed to better achieve the existing CEQA guidelines encouraging affordable housing. As such, the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its July 11, 2019 meeting in San Luis Obispo. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Brian O’Neill at the Central Coast District Office in Santa Cruz.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 20, 2019. It amends the IP only and the 60-working-day action deadline is August 14, 2019. (*See* Coastal Act Sections 30513, 30514(b).) Thus, unless the Commission extends the action deadline (it may be extended by up to one year per Coastal Act Section 30517), the Commission has until August 20, 2019 to take a final action on this LCP amendment.

Exhibit:

Exhibit 1: Proposed Amendment Text