

CALIFORNIA COASTAL COMMISSION

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**F11c****Prepared November 20, 2020 for December 11, 2020 Hearing**

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Rainey Graeven, Coastal Planner

Subject: De Minimis Amendment Determination for Proposed Santa Cruz County Local Coastal Program Amendment Number LCP-3-SCO-20-0065-2 (Permanent Room Housing Re-Zonings)

Proposed LCP Amendment

Santa Cruz County is proposing to modify the Local Coastal Program's (LCP) Zoning Map (a component of the LCP's Implementation Plan (IP)) to add the Permanent Room Housing (PRH) combining district to two parcels within the County's coastal zone. Specifically, the proposed amendments would re-zone 165 East Street and 222 Santa Cruz Avenue (both located in the unincorporated Seacliff community in the Aptos area of the south County) from RM-3 (Multi-Family Residential with a minimum land area of 3,000 net developable square feet per dwelling unit) to RM-3-PRH, and from RM-1.5 (Multi-Family Residential with a minimum land area of 1,500 net developable square feet per dwelling unit) to RM-1.5-PRH, respectively. Both properties were originally used as motels, but have consistently been in residential use since the 1970s. See **Exhibit 1** for photos of the two properties proposed for re-zoning.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis" if the amendment meets the following three criteria:

1. The proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and it is consistent with Coastal Act Chapter 3.
2. The proposed amendment does not propose any change in use of land or water or allowable use of property.

LCP-3-SCO-20-0065-2 (Permanent Room Housing Re-Zonings)

3. The proposed amendment was properly noticed by the local government at least 21 days prior to submittal¹ to the Commission (i.e., by posting notice on-site and off-site in the affected area, publishing notice in the local newspaper, and/or mailing notice to owners and occupants of affected and contiguous properties).

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the Executive Director's de minimis LCP amendment determination at that time, then the amendment is set for a future public hearing as a regular LCP amendment. If not, then the amendment is deemed approved and it becomes a certified part of the LCP ten days after the date it is reported to the Commission (in this case, it would be certified on December 21, 2020).

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

De Minimis LCP Amendment Analysis

Each of the de minimis criteria is discussed briefly below

1. No impact to coastal resources and consistency with Coastal Act Chapter 3

In December of 2019, the Coastal Commission approved an LCP amendment to create the Permanent Room Housing (PRH) combining district in an effort to recognize and legalize permanent residential occupancy within existing structures used for residential use, but when such structures do not conform with and are not easily made to conform to existing residential zoning requirements (e.g., former nursing homes, residential care facilities, etc.). The primary intent of the PRH combining district was to legalize and preserve existing residential units which provide lower- and moderate-cost housing in the coastal zone. An LCP amendment is required to add the PRH combining district, including to ensure that such a residential designation is appropriate for any particular site. This proposed LCP amendment is the first to utilize the PRH zoning construct, with the goal of bringing these two properties into conformance with LCP requirements and protecting existing housing opportunities.

The existing number of residential units at 165 East Street and 222 Santa Cruz Avenue currently exceeds the maximum allowable densities of the underlying LCP land use designations and zoning requirements, and thus these properties are non-conforming in terms of density. Adding the PRH combining district would bring the properties into LCP conformance because the PRH combining district allows existing densities at the time of re-zoning to remain (provided other regulations set forth in the PRH ordinance are also met, which they are here). Although both properties were used briefly as motels in the 1960s, the properties have consistently been in residential use since the 1970s (222 Santa Cruz Avenue since at least 1972, and 165 East Street since at least 1979 (i.e., the year that the current owners purchased the property)). Because both properties are

¹ An LCP amendment is deemed to have been 'submitted' when it has been determined that it includes all of the necessary supporting documentation and information required by the Coastal Act and the Commission's implementing regulations, and is 'filed' by Commission staff as complete.

LCP-3-SCO-20-0065-2 (Permanent Room Housing Re-Zonings)

zoned and designated for residential use, and have consistently been used for residential purposes for over 40 years, the proposed re-zonings would not result in the conversion of overnight accommodations (a visitor-serving use), and will not have any other significant effect on coastal resources otherwise. Rather, the proposed LCP amendment serves to recognize the existing high-density residential use of LCP-designated residential properties that would otherwise be inconsistent with the maximum densities allowed by the underlying zoning districts.² And it helps to preserve lower- and moderate-cost housing in the coastal zone, consistent with the objectives of the LCP's PRH provisions. Thus, the proposed amendment will not adversely affect coastal resources; it is consistent with Coastal Act Chapter 3; and it meets the first de minimis LCP amendment criterion.

2. No change in use of land or allowable use of property

Both affected properties are currently designated by the LCP for residential uses, and are currently in residential use. Thus, the proposed amendment does not change any LCP-allowed uses of land or LCP-allowed uses of property, and it meets the second de minimis LCP amendment criterion.

3. Provision of public notice

The County provided public notice, via newspaper notice³ and mail/email notice⁴ in advance of both the Planning Commission hearing (held on July 22, 2020) and the Board of Supervisors' hearing (held on September 1, 2020), and the Board approved the amendment on September 1, 2020. In addition, as part of both hearing processes, the proposed amendment text was made available to the Planning Commission's mailing list and the Board of Supervisors' agenda packet distribution list prior to its consideration in a hearing, and the text was also available for public inspection at the County Planning Department and on the County's website in advance of the hearings. The proposed amendment was subsequently received by the Commission on October 19, 2020, and filed as complete on November 5, 2020, roughly two and a half months after it was last noticed locally. Therefore, the 21-day noticing requirement has been satisfied, and the proposed amendment meets the third and final de minimis LCP amendment criterion.

California Environmental Quality Act (CEQA)

² Future proposed PRH re-zonings would go through the same type of LCP consistency analysis on these points. In other words, each re-zoning would be carefully scrutinized to ensure that visitor-serving uses are appropriately protected, and that the re-zoning of properties by adding the PRH combining district within the coastal zone is narrowly tailored to reflect existing residential uses and densities. In cases where a site's underlying zoning is not residential, and/or is or has more recently been used for a visitor-serving use, adding PRH may not be allowable under the LCP, which expressly prohibits the conversion of motels/hotels zoned "Visitor Accommodation" or "Tourist Commercial" within the coastal zone, and explicitly prohibits conversion of higher priority uses to lower priority uses.

³ The proposed amendment was noticed via a newspaper notice on July 11, 2020, prior to Planning Commission hearing, and on August 22, 2020, prior to the Board of Supervisors' hearing.

⁴ Hard copy notices were mailed and email notices were sent to all property owners located within 300 feet of exterior property lines for both affected properties.

LCP-3-SCO-20-0065-2 (Permanent Room Housing Re-Zonings)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the County exempted the proposed amendment from environmental review (citing CEQA Sections 15301 and 15061(b)(3), and asserting that all units that would be affected by the PRH designation are already in use as permanent housing, and that the proposed amendment would thus not have a significant effect on the environment).

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, and has concluded that approval of the proposed amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA. Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its December 11, 2020 virtual meeting. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Rainey Graeven at the Coastal Commission's Central Coast District Office by email at rainey.graeven@coastal.ca.gov. If you wish to comment on the proposed amendment and/or object to the proposed de minimis LCP amendment determination, please do so via regular mail (directed to the Central Coast District Office) or email (by emailing centralcoast@coastal.ca.gov) by 5:00 p.m. on December 4, 2020.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 5, 2020. The proposed amendment affects the LCP's IP only, and the 60-working-day deadline for the Commission to take action on it is February 5, 2021. Thus, unless the Commission extends the action deadline (it may be extended by up to one year by the Commission per the Coastal Act), the Commission has until February 5, 2021 to take a final action on this LCP amendment.

LCP-3-SCO-20-0065-2 (Permanent Room Housing Re-Zonings)

Exhibits

Exhibit 1: Site Photos