

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



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To: Commissioners and Interested Parties

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

Subject: De Minimis Amendment Determination for Proposed Santa Cruz County LCP Amendment Number LCP-3-SCO-20-0020-1 (ADUs)

Proposed LCP Amendment

Santa Cruz County is proposing to modify the Implementation Plan (IP) component of the Local Coastal Program (LCP) to amend existing regulations and refine accessory dwelling unit (ADU) provisions to comply with recent changes to state housing law (including changes established by Assembly Bills 68, 587, and 881, and Senate Bill 13, which all took effect on January 1, 2020). The primary proposed LCP changes provide for streamlined ADU review and permit processing, reduced permit fees, more lenient ADU development standards (e.g., for requirements related to setbacks, parking, Junior ADUs (JADUs)¹, owner occupancy, etc.), allowing both an ADU and a JADU on a single residential parcel, and code enforcement amnesty for certain ADUs. See **Exhibit 1** for the text of the proposed LCP changes in ~~strikethrough~~/underline format.

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.
3. The proposed amendment was properly noticed by the local government at least 21 days prior to submittal to the Commission (i.e., by posting notice on-site and off-site

¹ A Junior ADU, or a JADU, is defined as a residential living area contained within a single-family residence and that is no more than 500 square feet in size (see proposed IP Section 13.10.700-J: Junior Accessory Dwelling Unit).

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 May 23, 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

The proposed amendment would refine LCP ADU provisions consistent with recent changes to state housing law. Specifically, the following changes are proposed:²

- Allow both an ADU and a JADU on any single-family residential property
- Allow up to two detached ADUs and allow conversion ADUs^{3,4} for up to 25% of the multi-family units (e.g., if it was a 100-unit complex, then up to 25 conversion ADUs would be allowed) where multi-family residential dwellings (e.g., apartments, condominiums, or townhomes) exist or are proposed
- Eliminate all off-street parking requirements for JADUs in all cases, and for ADUs located within designated architecturally and historically significant districts, for ADUs located within one block of a dedicated parking space reserved for a publicly available ride share,⁵ and for ADUs located within a half-mile walking distance of any public transit stop (unless the ADU is located in a high beach traffic area),⁶ except

² See **Exhibit 1** for the proposed amendment text.

³ A conversion ADU is defined as the conversion of any portion of a legal accessory structure or any portion of a single-family dwelling or any garage into an ADU (see proposed IP Section 13.10.681(B)(4)).

⁴ Conversion ADUs in multi-family residential developments must be converted from areas not previously used as living space (including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages).

⁵ There are currently no such designated architectural/historical districts or dedicated rideshare locations in the County's coastal zone, but the criteria are being added consistent with state housing law in the event either becomes applicable in the future.

⁶ The area nearest the shoreline and popular beach access destinations in the Live Oak, Seacliff/Aptos, and Davenport/Swanton areas, where the Live Oak area refers to the portion of Live Oak that lies east and south of East Cliff Drive and Portola Drive from the intersection of 9th Avenue and East Cliff

where a garage, carport, or covered parking structure (and not a driveway or other parking area) is demolished or converted into an ADU, and except where off-street parking requirements for the primary residence are already inadequate⁷

- Allow any required ADU parking to be provided via tandem or triple tandem parking arrangements, and to be located within setbacks (unless infeasible due to site specific topographical or fire/public safety conditions)
- Ensure that ADUs are still subject to a constraints analysis, including but not limited to identifying constraints based on the standards related to environmentally sensitive habitat areas (ESHA), wetlands and riparian corridors, agriculture, significant public views, and coastal hazards
- Ensure that parking permits are made available to ADU occupants in areas where parking permits are required (e.g., within the Live Oak Parking Program area during summer weekends and holidays)
- Specify that ADUs can be sold separately from the primary residence if the ADU was developed by a qualified non-profit corporation and it meets all other provisions of California Government Code Section 65852.26
- Prohibit short-term rental use within ADUs
- Allow new construction ADUs to be up to 28 feet in height with the following exceptions: new detached ADUs within the Urban Services Line (USL) shall have a maximum height of 16 feet; new ADUs built above garages within the USL shall have a maximum height of 20 feet at the exterior walls and 24 feet at the roof peak; ADUs built above attached and detached garages in the Pleasure Point Combining District⁸ shall have a maximum height of 18 feet at exterior walls and 22 feet at the roof peak); and in the Seascape Beach Estates (SBE) Combining District⁹, ADU

Drive to the intersection of Portola Drive and 41st Avenue; the Seacliff/Aptos area refers to the area bounded on the west by the Capitola city limit, on the north by Highway 1, and on the east and southeast by Bonita Drive, San Andreas Road, and the Urban Services Line from San Andreas Road to Monterey Bay; and the Davenport/Swanton area refers to the area bounded on the south by Riverside Avenue and San Vicente Street in Davenport, extending north along Highway 1 to include the areas of New Town and Davenport Landing, and bounded on the north by the intersection of Swanton Road and Highway 1 (including all parcels within one-quarter mile of Swanton Road, but excluding any parcels that abut Last Chance Road).

⁷ In such cases, the parking non-conformity is not required to be corrected through the ADU project.

⁸ The LCP's Pleasure Point Combining District applies to the Pleasure Point area and provides additional development standards designed to ensure that development is consistent with the small-scale and ocean-focused character that defines the area.

⁹ The LCP's Seascape Beach Estates Combining District applies to one residential neighborhood in south County located inland of the Via Gaviota seawall, and additional standards there provide for slightly lower building heights that match the general pattern of historic development there.

heights may be up to the maximum allowable heights as specified in the SBE Combining District standards (see IP Section 13.10.436(B)).

- Ensure that ADU construction alone does not trigger a requirement that non-conformities for existing development on a site be corrected
- Ensure that new construction ADUs are sited and designed to be compatible with the primary residence on a site
- Delay applicable code enforcement actions for up to five years for ADUs built before January 1, 2020,¹⁰ unless correcting the violation is necessary to protect public health and safety

As the Commission is aware, the state has a housing crisis, and in particular an affordable housing crisis, and those issues are only more acute in the state's coastal zone. To address this critical need, the state legislature has enacted a number of housing laws in the last several years that are designed to eliminate barriers to providing housing, and to help foster additional housing units – particularly critically needed affordable units – where they can be appropriately accommodated by adequate public services and where, in the coastal zone, they will not adversely affect coastal resources. Toward this end, last year's legislative session included a series of changes to state housing law designed to facilitate more ADUs and affordable housing units. Those changes have triggered local governments in the coastal zone to update their LCPs to address the new ADU changes. Importantly, the changes in state law continue to explicitly require that Coastal Act (and by extension LCP) coastal resource protection is not suspended when considering ADUs, and thus updated local government ADU provisions must continue to ensure coastal resource protection. In short, the goal of updating LCPs related to ADUs is to seamlessly synthesize the state ADU housing law changes with the Coastal Act in a way that continues to protect coastal resources while also reducing and eliminating barriers to ADUs. Here, Santa Cruz County has done just that with this proposed LCP amendment, and the California Department of Housing and Community Development (HCD) found that the proposed LCP amendment is substantially in compliance with the state law.¹¹

¹⁰ The proposed ADU code enforcement amnesty program would expire on January 1, 2030.

¹¹ A major change in state housing law that took effect in 2020 is that HCD now has an oversight and approval role to ensure that local ADU ordinances are consistent with state law, similar to the Commission's review of LCPs. In this case, the County coordinated with HCD staff to develop the proposed LCP language, and HCD indicates that the proposed LCP amendment is consistent with state housing law, including the new 2020 ADU provisions, with the exception of the County's proposed side setbacks for the street-side of corner lots. The relevant state ADU law generally requires such side setbacks to be no more than 4 feet, but also requires them to be of a sufficient size to satisfy fire and public safety purposes. Here, the County has proposed a side setback for corner lots that requires drivers' line of sight to be preserved for public safety purposes (which can be upwards of 5 to 10 feet in certain cases). Such an exception seems both appropriate and also explicitly provided for in the state ADU law, and HCD indicates that its inclusion in the proposed amendment should not hold up approval of

Specifically, a significant portion of the County consists of already developed residential areas with adequate public services that can lend themselves to appropriate ADU development, both inside and, even more so, outside of the coastal zone. And within the coastal zone, there is also substantial area where ADUs can be developed without any significant coastal resource constraints. Thus, at a broad level, the proposed amendments should help achieve the objectives of the ADU legislation. And in areas where there are potential coastal resource issues, there are tools readily available to help foster ADUs, while simultaneously appropriately protecting those resources. In Santa Cruz County's case, areas with potential coastal resource concerns are generally limited to areas directly inland of prime shoreline visitor destinations (e.g., Pleasure Point) where there is a limited supply of, and high demand for, on-street parking for coastal visitors, and areas where there are significant public viewsheds (e.g., along the immediate shoreline), or both. Santa Cruz County's shoreline is a magnet for coastal visitors from the greater San Francisco Bay Area, as well as from more inland areas, and its coastal zone is strained to accommodate all of the public access it provides, including critically with respect to parking for those who do live immediately along the shoreline.

In terms of public access parking near these prime shoreline visitor destinations, it is important to ensure that there is adequate on-street public parking as a means of meeting Coastal Act and LCP public access provisions, particularly in terms of ensuring that no-cost and lower cost public access opportunities are both adequately provided for and ultimately maximized. This is particularly key given that most coastal visitors are not fortunate enough to live right by the coast, requiring them to drive and park in order to enjoy this public resource. In Santa Cruz County in particular, there are very few public parking lots and most coastal visitor parking is on-street. Thus, in order to ensure that public access is not reduced, particularly for coastal visitors who must drive in and find parking in order to access the coast, and to avoid disproportionately impacting inland communities and their rights to coastal access, the proposed ordinance must ensure that it does not lead to a reduction in shoreline and beach area on-street parking. Although state housing law generally seeks to preclude local ordinances from requiring off-street parking to serve ADUs, it also explicitly requires compliance with the Coastal Act, and thus it is appropriate in cases like this to seek a balance.

Santa Cruz County's LCP, like most LCPs, includes requirements that residential properties account for their parking needs on their own properties, often referred to as 'off-street' parking requirements (e.g., typically in garages, carports, covered parking etc.). When an ADU is added to a residentially developed site, it typically brings with it additional off-street parking needs, and when existing garages or carports are converted into ADUs, there is a potential to reduce the availability of on-street parking for visitors if the parking for the ADU and primary dwelling cannot be made up on site. This is particularly the case in older neighborhoods where development may not even meet

the ADU LCPA. HCD supports moving forward with the current language, and the County will continue to work together on language refinements over time.

current off-street parking requirements (e.g., the Pleasure Point area of Santa Cruz County). The recent state housing law changes restricted the circumstances when local governments can require that parking demand associated with ADU projects be accommodated onsite, including when it converts a space already used to accommodate site parking needs (e.g., garage conversion). In doing so, the legislature clearly signaled that ADUs are an important public objective, and thus use of public streets to accommodate some, or all, of their private parking needs is appropriate. At the same time, although such additional private parking needs can often be accommodated on-street in inland areas not near prime visitor destinations, allowing all ADU parking on-street in prime coastal visitor-serving destinations can significantly reduce public visitor access at those prime coastal visitor-serving destinations, especially in the Santa Cruz County context where almost all shoreline visitor parking is on-street.

To address these issues, the proposed amendment relaxes parking requirements by eliminating parking requirements for JADUs¹² and a significant portion of ADUs, and, in areas and situations where public access parking would be affected and private parking needs to be accommodated onsite, allowing parking requirements to be met via tandem and triple tandem parking, and in required setback areas (provided fire, public health and safety, and environmental constraints can still be respected). These measures provide appropriate flexibility in Santa Cruz County's coastal zone, and appropriately reflect its unique visitor parking context while simultaneously helping to minimize some of the factors that can prohibit ADU development, including cost and limited land area. In other words, the flexibility in where and how to provide required parking is an important piece of the proposed amendment that is designed to encourage more ADU development while balancing public access parking needs. In addition, parking will not be required for new construction ADUs located within a half-mile walking distance of transit except in the highest traffic beach areas nearest the shoreline and popular beach access destinations in the Live Oak, Seacliff/Aptos, and Davenport/Swanton areas. Put differently, parking restrictions are generally relaxed except in prime shoreline visitor destinations along the shoreline where it could have a significant deleterious effect on coastal visitor parking. The amendment thus finds that right balance by being accommodating of ADUs while still protecting public parking resources in the County's unique coastal zone circumstance, and HCD has indicated its support for this construct.

The proposed amendments also provide for relaxed ADU development standards consistent with state law (e.g., reduced setbacks, increased floor area ratio (FAR), and streamlined permitting for ADUs). The County's ordinance also includes minor tweaks to protect significant public coastal viewsheds. Specifically, the proposed amendment recognizes the LCP's Pleasure Point Combining District standards and harmonizes its objectives (namely to ensure that development is consistent with the small-scale and

¹² Helping to further encourage this unique type of ADU that can oftentimes accommodate an additional unit with limited or no structural expansion, and without any new potential impacts to coastal resources, as it relies on the already built environment.

ocean-focused character that defines the area) with ADU objectives, and similarly includes provisions to protect other areas with significant public views. For example, the underlying maximum height standard for the applicable zoning district is generally applied to ADUs (which is typically 28 feet in residential areas), except there are slightly reduced maximum heights within the USL and in areas with special view protection and community character standards (e.g., allowing a maximum 18-foot height at exterior walls and a 22-foot height at the roof peak for ADUs built above garages in Pleasure Point). Again, these changes reflect the importance of character and public views in the areas nearest significant public viewsheds, and facilitate ADU development in a way that protects these important coastal resources, again consistent with the way state housing law has been structured in relation to the Coastal Act.

ADUs are still subject to constraints analyses based on coastal resource protection policies including, but not limited to, standards related to ESHA, wetlands, riparian corridors, agriculture, significant public views, and coastal hazards, and the proposed amendment includes language clarifying that all environmental buffers and setbacks continue to apply (see proposed IP Section 13.10.681(D)(4)(b)) in **Exhibit 1**). Extending the same constraints analysis that is applied to other development to ADUs is appropriate, and allows for coastal resource concerns to be properly addressed. Since most residential areas in the County's coastal zone are not subject to such constraints, the effect should be appropriate coastal resource protection in the limited area that is subject to constraints while still fostering ADUs overall. With respect to agricultural land protection specifically, ADUs are allowed, even though residential development is only allowed on the County's agricultural lands in very narrow circumstances, both to protect the County's rural areas but also to protect the County's agricultural operators and significant agricultural economies. In these areas, ADUs will be allowed to accompany a primary residential dwelling subject to stringent findings and requirements, including for clustering in the vicinity of the primary residence and otherwise siting and designing to ensure that agricultural land is preserved for agricultural use as much as possible. In short, and as with the parking discussion above, the majority of areas where ADUs can be accommodated in the County have none of these constraints, but areas that do (e.g., the immediate shoreline in relation to coastal hazards and views, ESHA, etc.) must be evaluated and correspondingly structured to protect significant coastal resources, consistent with the explicit exception provided for protection of such resources through the Coastal Act in relation to state housing law (California Government Code Section 65852.2(l)). The proposed amendment therefore appropriately facilitates ADUs while protecting coastal resources.

In summary, the proposed amendment updates the LCP's ADU provisions consistent with recent changes in state ADU law, while simultaneously protecting important coastal resources, particularly as it relates to public recreational access, consistent with the Coastal Act, the LCP's Land Use Plan, and state ADU law. In other words, state ADU law allows local governments to tailor their ADU ordinances as necessary to protect coastal resources, and Santa Cruz County has appropriately tailored its proposed amendment while still adhering to ADU law and facilitating ADUs as directed by the

legislature. Commission staff worked closely with County staff to accomplish, and the County similarly worked closely with HCD. HCD indicates that the proposed amendment is substantially consistent with state ADU and housing law (and fully consistent with respect to parking requirements). The proposed changes should help to increase ADU stock in the County's coastal zone, including in important coastal resource areas where a more thoughtful approach is required and articulated to avoid coastal resource problems. Thus, the proposed amendment will not adversely affect coastal resources, it is consistent with Coastal Act Chapter 3, and it thus meets the first de minimis LCP amendment criterion.

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

The proposed amendment only refines the manner in which ADUs are allowed in the County's coastal zone under the LCP, but does not change any LCP-allowed uses of land or LCP-allowed uses of property. It thus meets the second de minimis LCP amendment criterion.

3. Provision of public notice

The County provided public notice, via newspaper notice and email notice to all interested persons in advance of both the County Planning Commission hearing (held on January 8, 2020) and the County Board of Supervisors' hearing (held on January 28, 2020),¹³ and the Board approved the amendment on January 28, 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 March 11, 2020, and filed as complete on March 25, 2020, roughly two months after it was 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)

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

¹³ The proposed amendment was noticed via a newspaper notice on December 26, 2019, prior to the January 8, 2020 Planning Commission hearing, and on January 18, 2020, prior to the January 28, 2020 Board of Supervisors' hearing.

review. In this case, the County exempted the proposed amendment from environmental review (citing CEQA Sections 15061(b)(3) and 15282(h)).

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 May 13, 2020 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 5pm on May 8, 2020.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on March 25, 2020. The proposed amendment affects the LCP's IP only, and the 60-working-day deadline for the Commission to take action on it would normally be June 19, 2020. However, on April 16, 2020, California's Governor issued Executive Order N-52-20, which tolls this deadline for 60 calendar days (i.e., until August 18 2020). 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 August 18 2020, to take a final action on this LCP amendment.

Exhibits

Exhibit 1: Proposed LCP IP ADU amendment in strikethrough and underline