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Prepared April 24, 2020 for May 13, 2020 Hearing

To: Commissioners and Interested Persons
From: Susan Craig, Central Coast District Manager
Colin Bowser, Coastal Planner
Subject: De Minimis Amendment Determination for City of Santa Cruz LCP
Amendment Number LCP-3-STC-20-0024-1-Part D (ADU Slope
Regulations)

City of Santa Cruz's Proposed Amendment

The City of Santa Cruz proposes to modify its Local Coastal Program (LCP) Implementation Plan (IP) by modifying Section 24.08.800 (Slope Regulation Modifications) to comply with the state legislature's recent revisions to several laws concerning accessory dwelling units (ADUs). In response to the continuing critical shortage of most types of housing in the state, the legislature recently passed several laws designed to promote ADU construction and directed local governments to revise local ADU ordinances in accordance with state law. The proposed amendment modifies the LCP's slope regulations to allow an ADU to be constructed on or near slopes of 30% or greater under certain circumstances. Modifying the City's IP with this amendment's language would help foster the construction of ADUs as directed by the recent state ADU laws.¹ See **Exhibit 1** for the text of the proposed IP Section 24.08.800.

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." In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

¹ This amendment only addresses the construction of ADUs on or near slopes of 30% or greater. The City has recently submitted a separate LCP amendment to address the other changes in state law regarding ADUs, and that amendment will be in front of the Coastal Commission soon.

1. The Executive Director determines that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and that it is consistent with the Chapter 3 policies of the Coastal Act;
2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and off-site in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and
3. The amendment does not propose any change in use of land or water or allowable use of property.

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 de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more Commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP ten days after the date of the Commission meeting (in this case, 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. Each of the de minimis criteria is discussed briefly below:

1. **No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:** The state legislature recently passed Assembly Bill (AB) 587, AB 670, AB 881, and Senate Bill (SB) 13 which all seek to promote affordable housing construction through ADUs and junior ADUs (JADUs). The four bills dictate to local governments how they may regulate the construction of ADUs and the new, smaller form of ADU called JADUs². Collectively, the new laws try to stimulate the creation of more affordable housing in the form of ADUs and JADUs by restricting how tightly local jurisdictions can regulate their construction. The laws nullify existing local ADU laws that do not comply with the new state ADU-JADU laws and in local jurisdictions without ADU laws, the state ADU laws become the operative local governing statute. The City of Santa Cruz's IP contains comprehensive regulations for ADUs and separate but related regulations concerning houses and ADUs built on or near slopes of 30% or greater. The proposed amendment would revise the IP's slope regulations for ADUs by allowing an applicant to receive a slope regulation modification under certain circumstances to build an ADU on or near slopes of 30% or greater. Specifically, to construct an ADU on or within 10 feet of such slopes, a

² A junior ADU is a smaller version of an ADU. While ADUs are generally detached, free-standing structures that are separate from a single-family house or multi-family housing building, a JADU is a smaller section of the main house or multi-family building with a separate entrance, cooking area, and bathroom.

regulation modification would be granted if no other alternative site configurations exist that would allow an ADU of at least 800 square feet to be sited beyond 10 feet from the slope. This slope modification is already allowed in the existing LCP, but to do so required seven findings to be made.³ Under the proposed amendment, if making all seven required findings of the slope regulations would create a particular physical hardship in building an ADU where no reasonable alternative on the site exists, then the applicant for the ADU shall comply with as many of the findings as possible, but shall not be denied the ADU solely based on this section of the IP.

While the proposed amendment would make it easier to build ADUs in areas with steep slopes, raising potential concerns regarding landform alteration, grading, and site stability, there are few things to note. First, there are only a few places in the coastal zone that contain such steep slopes (i.e., most of the coastal zone is the City's relatively flat coastal plain). So, the potential applicability of the proposed ordinance is minimal, with the City estimating that only a maximum of ten ADUs in the coastal zone would benefit from/be potentially subject to this ordinance. Second, this isn't a new slope modification allowance, but rather a refinement of the existing one to make it a bit easier for ADU construction, and would only apply when an existing residence is already built on the property and siting and design alternatives to avoid the slopes have been exhausted. And finally, the rest of the LCP would still apply, including policies protecting public views and scenic areas, and therefore any potential issues for ADUs on steep slopes can still be appropriately addressed by other LCP tools. As such, the proposed amendment should have limited applicability in the coastal zone and should not lead to any adverse coastal resource impacts.

Thus, the proposed amendment will not adversely affect coastal resources, and it is consistent with the policies of Chapter 3 of the Coastal Act.

2. **Provision of public notice:** The City provided public notice, including newspaper notice, in advance of the Planning Commission hearing (held on November 14, 2019) and the City Council hearings (held on December 10, 2019 and on January 14, 2020) where the proposed amendment was considered. The proposed text was made available at the City Clerk's office and on the City's website for public

³ The seven findings are: (1) project design mitigates impacts to the City's Environmental Quality Element and LCP; (2) landscaping of an appropriate type/size/quality is proposed to mitigate any environmental effects; (3) usable open space is proposed in an amount equal to that normally required; (4) to conform with existing land forms and topography, streets, buildings, and other man-made structures have been designed by a registered civil engineer or other qualified professional; (5) adequate fire safety measures as required by the city fire department have been incorporated in the design when located in a designated fire hazard area; (6) the proposed project employs architectural and design elements which in total serve to reduce the mass and bulk of structures; and (7) if in a designated landslide area, mitigation measures are included as necessary to fulfill the purpose of the city's landslide safety code, based on the project's environmental review.

inspection, all in advance of the City's hearings. The amendment submittal was subsequently received by the Commission on February 27, 2020 (and filed as complete on March 9, 2020), and therefore, the 21-day noticing requirement has been satisfied.

- 3. No change in use of land or allowable use of property:** No change in use is proposed by this amendment.

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. The City exempted the proposed amendment from environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal and has concluded that 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 de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its May 13, 2020 meeting to be held online. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Colin Bowser at the Central Coast District Office in Santa Cruz by email (colin.bowser@coastal.ca.gov). If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so via email by 5:00 p.m. on May 8, 2013.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on March 9, 2020. It amends the IP only and the 60-working-day action deadline for the Commission to take action on the amendment would normally be June 3, 2020. However, on April 16, 2020, California's Governor issued Executive Order N-52-20 that suspends this deadline for 60 days (i.e., until August 26, 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 26, 2020 to take a final action on this LCP amendment.

Exhibit

Exhibit 1: Proposed LCP IP 24.08.800 (Slope Regulation Modifications)