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**Prepared August 21, 2020 for September 11, 2020 Hearing**

**To:** Commissioners and Interested Persons

**From:** Susan Craig, Central Coast District Manager  
Kevin Kahn, Central Coast District Supervisor  
Esme Wahl, Coastal Planning Intern

**Subject: De Minimis Amendment Determination for Proposed City of Grover Beach LCP Amendment Number LCP-3-GRB-20-0046-1 (ADUs)**

## **City of Grover Beach's Proposed LCP Amendment**

The City of Grover Beach 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),<sup>1</sup> owner occupancy, etc.), and allowing both an ADU and a JADU on a single residential parcel. The proposed amendment also includes new allowances and regulations for "Tiny Homes," defined as temporary housing between 100 and 400 square feet in size, which would be allowed in all residential zoning districts. (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." In order to qualify as a de minimis amendment, the amendment must meet 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.

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<sup>1</sup> A junior ADU, or a JADU, is defined as a residential living area contained within a single-family residence that is no more than 500 square feet in size.

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 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 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, it would be certified on September 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.** 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 proposed amendment would refine LCP ADU provisions consistent with recent changes to state housing law. Specifically, the following changes are proposed:<sup>2</sup>

- Allow both an ADU and a JADU on any property with a single-family residence.
- Allow up to two detached ADUs and allow conversion ADUs<sup>3,4</sup> 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 ADUs and JADUs and eliminate the requirement that the two parking spaces required for single-family residences be within a garage.

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<sup>2</sup> See **Exhibit 1** for the proposed amendment text.

<sup>3</sup> 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.

<sup>4</sup> 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).

- Require a Building Permit and coastal development permit (CDP) for ADU development in the coastal zone (unless such development can be found exempt per the Coastal Act/LCP CDP exemption criteria).
- Prohibit short-term rental use within ADUs.
- Allow new construction ADUs to be up to 16 feet in height in the Coastal Planned Low Density Residential Zone (CPR1) and the Coastal Low Density Residential Zone (CR1), and up to 25 feet in height in the Coastal Medium Density Residential Zone (CR2) and the Coastal High Density Residential Zone (CR3).
- Ensure that new construction ADUs are sited and designed to be compatible with the primary residence on site.
- Eliminate the requirement that the owner must occupy either the ADU or the primary dwelling unit.
- Require that the owner must occupy either the JADU or the primary dwelling unit.
- Allow for Tiny Homes as a new type of dwelling unit within all residentially zoned parcels in addition to the primary residence and a JADU (but not with an ADU).

As the Commission is aware, the state has a housing crisis, and in particular an affordable housing crisis. These 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 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 the creation of more ADUs and affordable housing units. These laws have triggered local governments in the coastal zone to update their LCPs to address the new requirements around ADUs. Importantly, the changes to state law continue to explicitly require that Coastal Act (and by extension LCP) coastal resource protections are not suspended in the construction of ADUs. Thus, updated local government ADU provisions must continue to protect coastal resources. In short, local governments with certified LCPs must update their LCPs to seamlessly synthesize 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 the construction of ADUs. Here, the City of Grover Beach has done just that with this proposed LCP amendment. The California Department of Housing and Community Development (HCD), the agency charged with enforcing the new ADU laws, reviewed the proposed LCP amendment and did not identify any issues of compliance with new ADU laws.

Specifically, a significant portion of the City consists of already-developed residential areas with adequate public services that are appropriate for ADU development, both inside and outside of the coastal zone. Within the coastal zone, there are also substantial areas where ADUs can be developed without any significant impacts to coastal resources, including public coastal access and parking. The residentially developed part of the City is separated from the beach by Highway 1. There are no residences (and thus no existing or allowable ADUs) on the seaward side of Highway 1. On the seaward side of Highway 1 there is a free public parking lot to serve beach-going visitors. Therefore, the proposed amendment's allowance to build ADUs and JADUs without off-street parking will not impact public access because street parking in the residential zones of Grover Beach is not commonly used by visitors.<sup>5</sup>

The proposed amendment also provides for relaxed ADU development standards consistent with state law (e.g., reduced setbacks, excluding ADUs from lot coverage and density calculations) aimed at creating housing opportunities for low- and moderate-income households. This includes many specific requirements for ADUs, including: where they are allowable (i.e., in the CPR1, CR1, CR2, and CR3 zoning districts); how they must be sited and designed, including requirements for size depending on ADU types (e.g., a minimum 150 square feet and a maximum 1,200 square feet for standalone ADUs; less than 50% of the primary dwelling or 1,200 square feet (whichever is less) for attached ADUs; 500 square feet for JADUs, and a minimum of 100 square feet and a maximum of 400 square feet for Tiny Homes); and setbacks (four feet from property lines). It also includes requirements aimed at streamlining construction, such as imposing no minimum lot size, not requiring separate water meter or utility connections, waiving payment of impact development fees for ADUs less than 750 square feet, and allowing existing non-conforming setbacks of permitted structures to be maintained if converted to an ADU.

And finally, the rest of the LCP would continue to apply to ADUs, including policies ensuring that ADUs are not constructed in a location that would require shoreline protective devices, in environmentally sensitive habitat areas, in wetlands, or in areas where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime. As such, the LCP includes appropriate tools to ensure ADUs are constructed in a manner that protects coastal resources while also providing for important housing opportunities. Therefore, the amendment is consistent with Chapter 3 of the Coastal Act and will not adversely impact coastal resources.

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<sup>5</sup> In other words, unlike some other communities in the coastal zone, ADU on-street parking use will not affect coastal beach access because there are no residential neighborhoods (and thus no ADUs) seaward of Highway 1.

**2. No change in use of land or allowable use of property:** The LCP currently allows Second Residential Dwellings in all residential zones. The proposed amendment changes the name of this use type to ADU and modifies applicable development standards. Thus, the proposed amendment only refines the manner in which ADUs are allowed in the City's coastal zone under the LCP but does not change any LCP-allowed uses of land or LCP-allowed uses of property. Thus, the amendment meets the second de minimis LCP amendment criterion.

**3. Provision of public notice:** The City provided public notice in advance of the Planning Commission hearing (held on May 27, 2020) and the City Council hearings (held on June 22, 2020 and July 6, 2020) where the proposed amendment was approved and then adopted. For the Planning Commission hearing, a newspaper advertisement notice was printed on May 14, 2020. For the City Council hearings, a newspaper advertisement notice was printed on June 4th, 2020. The amendment submittal was subsequently received by the Commission on July 16, 2020 (and filed as complete on July 22, 2020). Therefore, the 21-day noticing requirement has been satisfied.

### **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 review. In this case, the City exempted the proposed amendment from environmental review (citing California Public Resources Code Section 21080.17 (Application of Division to Ordinances Implementing Law Related to Construction of Dwelling Units and Second Units)).

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 September 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 Kevin Kahn (Kevin.Kahn@coastal.ca.gov) at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by 5:00 p.m. on Friday September 4, 2020.

**Procedural Note - LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on July 22, 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 October 14, 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 October 14, 2020, to take a final action on this LCP amendment.

Exhibit

Exhibit 1: Proposed LCP ADU amendment text