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Prepared December 18, 2020 for January 13, 2021 Hearing

To: Commissioners and Interested Persons

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

**Subject: Santa Cruz County LCP Amendment Number LCP-3-SCO-20-0063-2
(Temporary Uses)**

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County proposes to amend Chapter 13.10 of the Local Coastal Program (LCP) Implementation Plan (IP) to update regulations related to temporary uses and structures (including residential accessory structures), temporary permits, and home occupations, all in an effort to support individuals and businesses who have been adversely impacted by the COVID-19 pandemic and by the CZU Lightning Complex Fires in the Santa Cruz Mountains. The proposed amendment also updates regulations governing hosted vacation rentals,¹ aligning it with concurrent updates to the LCP's Vacation Rental Ordinance, and also adds a new section governing the use of cargo shipping containers. In general, the proposed amendment clarifies and expands existing regulations governing a variety of temporary uses and structures.

The suggested modifications clarify that a Coastal Development Permit (CDP) may be required in conjunction with a temporary use/structure permit. County staff and Commission staff coordinated extensively on the proposed amendment, and County staff has indicated they are in agreement with the suggested modifications and with staff's recommendation. As modified, the proposed amendment is consistent with and adequate to carry out the Land Use Plan (LUP). Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on December 8, 2020. The proposed amendment affects the LCP's IP only and the 60-working-day action deadline is March 8, 2021. Thus, unless the Commission extends the action deadline (it may be

¹ A hosted rental refers to a dwelling unit, where a long-term resident acting as host occupies one bedroom in a dwelling unit while one or two legal bedrooms are rented for the purpose of overnight lodging for a period of less than 30 days.

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extended by up to one year), the Commission has until March 8, 2021 to take a final action on this LCP amendment.

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EXHIBITS

Exhibit 1: Proposed IP Amendment

1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make two motions on the IP amendment in order to act on this recommendation.

A. Deny the IP Amendment as submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in denial of the IP amendment as submitted and adoption of the following resolution. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion: *I move that the Commission reject the Implementation Plan Amendment LCP-3-SCO-20-0063-2 as submitted by Santa Cruz County.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-SCO-20-0063-2 as submitted by Santa Cruz County and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of Implementation Plan Amendment as submitted.*

B. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and the findings in this report. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present:

Motion: *I move that the Commission certify LCP Amendment Number LCP-3-SCO-20-0063-2 as submitted by Santa Cruz County if it is modified as suggested in this staff report, and I recommend a **yes** vote.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-SCO-20-0063-2, if modified as suggested, and adopts the findings set forth below on the grounds that the Implementation Plan Amendment with the suggested modifications conforms with the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act consistency findings. If Santa Cruz County accepts each of the suggested modifications within six months of Commission action (i.e., by July 13, 2021), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format and text in underline format denotes proposed text to be deleted/added by the County, and text in ~~double cross-out~~ and double underline denotes changes required by the Commission.

1. Modify IP Section 13.10.612(B) as follows:

(B) Cargo containers may be sited and used as accessory structures outside of the urban and rural services lines in all zone districts, subject to a Level III administrative site development permit unless a Coastal Development Permit is required per SCCC 13.20. Inside the urban and rural service lines, cargo containers may be allowed on commercial or industrial properties only.

2. Modify IP Section 13.10.616(B)(1) as follows:

Temporary permits shall be processed in accordance with procedures in SCCC 18.10 for Level III administrative permits unless a Coastal Development Permit is required per SCCC 13.20. In the instance where a temporary use involves amplified music, a temporary permit shall be processed in accordance with procedures in SCCC 18.10 for noticed Level IV administrative permits, which may be elevated to a Level V permit process involving a noticed public hearing for proposals involving longer timeframes or multiple and repeated activities.

3. FINDINGS AND DECLARATIONS

A. Description of Proposed LCP Amendment

Santa Cruz County proposes to amend the LCP's Implementation Plan (IP) to update and expand regulations governing temporary uses and structures. More specifically, the proposed amendments would: update regulations related to temporary uses and structures (including residential accessory structures), temporary permits, and home occupations in an effort to support individuals and businesses who have been adversely impacted by the COVID-19 pandemic and the CZU Lightning Complex Fires in the Santa Cruz Mountains. The proposed amendment would also align and update the portions of the IP governing hosted vacation rentals with existing and concurrently proposed regulations governing vacation rentals overall (see LCP-3-SCO-20-0064-2), including clarifying the designated areas where numerical caps on hosted rentals are imposed (i.e., the Davenport/Swanton, Live Oak, and Seacliff/Aptos/La Selva Beach Designated Areas); clarify the block map requirements for the designated areas, and that proof of transient occupancy tax can be demonstrated not just via receipt, but also via proof of registration through an online platform.

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The proposed amendment also includes a new section clarifying that certain types of temporary uses/structures would be exempt from the provisions of the Temporary Uses and Structures chapter of the LCP and thus would not require a temporary permit.² These exemptions include: events and uses conducted entirely within public property or the public right-of-way, provided they are not associated with an adjacent or nearby private use on private property and where appropriate special event, concession license, licensing agreements, and/or encroachment permits have been obtained; temporary uses conducted within a building, such as a temporary sales area (again for which all other necessary permits have been obtained); garage and yard sales provided they do not exceed four weekends per year; seasonal sales of Halloween pumpkins, Christmas trees, and similar products (in all zoning districts except for residential zoning districts); and temporary storage boxes/tents provided they meet certain requirements (e.g., pertaining to lighting, size, line of sight, etc).

Finally, the proposed amendment also adds a new section on cargo shipping containers, including that they may be erected and used as an accessory structure outside of the urban and rural services lines in any zoning district subject to a temporary use/structure permit.³ Inside the urban and rural services lines, their use would be limited to commercial or industrial zoned properties. In general, the proposed amendment clarifies and expands upon existing LCP regulations governing a variety of temporary uses and structures, including that a temporary permit is required for temporary uses/structures unless otherwise indicated.

Please see **Exhibit 1** for the proposed IP amendment text.

B. Evaluation of Proposed LCP Amendment

Standard of Review

The proposed amendment affects the LCP's IP, and the standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

Applicable Land Use Plan Policies

The County's LUP contains objectives and policies that provide for the protection of visual and scenic resources and require that development be sited to either minimize or have no impact on scenic resources. The LUP also includes policies that describe the allowable uses on land designated service commercial, light industrial, or heavy

² The temporary uses/structure permit exemptions identified in this chapter refer solely to an exemption from requiring a temporary permit. Whether a temporary use/structure requires a CDP is dictated by IP Chapter 13.20, which specifies both when a CDP is required and when a temporary structure/use is exempt or excluded from CDP requirements. Regarding temporary events, IP Section 13.20.066 exempts temporary events from CDP requirements under certain circumstances.

³ The proposed amendments also note that cargo containers integral to a lawful shipping or storage business are exempt from these provisions and are instead regulated by the site standards of the applicable underlying zoning district.

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industrial, while ensuring that those uses are compatible with the environment and adjacent land uses. These policies include:

LUP Policy 2.16.4: Allowed Visitor Accommodations in Urban Residential Areas. Allow small scale Visitor Accommodations such as inns or bed and breakfast accommodations in urban residential areas and within the Rural Services Line where the use would be compatible with neighborhood character, surrounding densities, and adjacent land uses.

LUP Policy 2.17.3: Allowed Uses in Service Commercial and Light Industrial Designations. Allow light industrial facilities such as assembly and manufacturing; commercial services facilities such as auto repair, contractors' yards and warehousing; and outdoor sales facilities, such as nurseries, lumber yards, and boat and auto sales in the Commercial Services/Light Industry land use designation. Limit the permitted uses in this category to those without major pollution or nuisance factors. Limit general retail uses in this designation to those which require large showrooms or outside sales area, or those which are ancillary to a manufacturing use and market items produced on site. Allow childcare facilities intended to serve employees of the light industrial development. Allow limited office uses and those which are accessory to the approved service commercial or light industrial use.

LUP Objective 2.19a: Heavy Industrial Designation (I). To provide for limited heavy industrial activities such as lumber mills and major manufacturing plants, to encourage the productive utilization of the County's natural resources and provide employment for County residents, while ensuring compatibility with the environment, available infrastructure, and adjacent land uses.

LUP Objective 2.23: Conservation of Coastal Land Resources. To ensure orderly, balanced utilization and conservation of Coastal Zone resources, taking into account the social and economic needs of the people of Santa Cruz County.

LUP Objective 5.10a: Protection of Visual Resources. To identify, protect and restore the aesthetic values of visual resources.

LUP Objective 5.10b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources.

LUP Policy 5.10.2: Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics and that the resources worthy of protection may include, but are not limited to, ocean views, agricultural fields, wooded forests, open meadows, and mountain hillside views. Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. Require discretionary review for all development within the visual resource area of

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Highway One outside of the Urban/Rural boundary, as designated on the GP/LCP Visual Resources Map and apply the design criteria of Section 13.20.130 of the County's zoning ordinance to such development.

LUP Policy 5.10.3: Protection of Public Vistas. *Protect significant public vistas as described in policy 5.10.2 from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sited within these vistas. (See policy 5.10.11.)*

LUP Objective 7.7a Coastal Recreation. *To maximize public use and enjoyment of coastal recreation resources for all people, including those with disabilities, while protecting those resources from the adverse impacts of overuse.*

Consistency Analysis

Taken together, these LUP objectives and policies protect visual and scenic resources; allow for industrial type uses on properties designated for industrial uses (provided such uses are compatible with the environment and surrounding area); and broadly recognize the importance of protecting coastal resources while also considering the greater social and economic context of the County.

The proposed amendment addresses an array of temporary uses and structures including home occupations, temporary habitable and non-habitable structures for residentially zoned parcels, and temporary use/structure permits that can be applied to a range of scenarios (not all of which are explicitly identified, in part to give flexibility to persons seeking a temporary use/structure permit in response to recent disasters affecting Santa Cruz County residents and businesses including the COVID-19 pandemic and the CZU Lightning Complex Fire).

Suggested Modification 1 clarifies that a CDP may be required for the placement of a shipping container on a property within the coastal zone, and relatedly, **Suggested Modification 2** clarifies that any temporary use/structure permit may also be subject to the coastal permitting requirements of IP Chapter 13.20 (which describes CDP permitting requirements as well as various CDP exclusions and exemptions). The proposed modifications would bring the proposed amendments into consistency with the LUP, particularly LUP Objective 2.23, which protects coastal resources and also considers the social and economic needs of the County.

Specifically, the County's proposed amendments to the Temporary Uses/Structures chapter are designed to be broadly applicable and flexible in their application including so that individuals/businesses suffering economic hardship or altered home/work conditions have a permit readily available to address any unusual and/or unforeseeable circumstances. In other words, the intention was to create a broad temporary use/structure permit framework that can be used for a range of scenarios. **Suggested Modification 2** complements the County's proposed amendments by retaining that

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built-in flexibility, while ensuring that any use/structure that meets the definition of development would still be evaluated through a coastal permit lens (i.e., that the range of coastal resources, including visual resources, biotic and marine resources, and public access/recreation, are considered and appropriately protected).

In terms of LUP consistency with other components covered in the proposed amendment, the proposed amendments limit the placement of shipping containers located within the urban and rural services lines to industrially and commercially zoned properties. In addition, the proposed amendment would require visual screening of shipping containers and prohibits their location within any scenic resource areas. It also requires that they be screened to the greatest extent feasible and from adjacent properties. Collectively, these requirements would significantly limit the placement of shipping containers in the coastal zone, and if allowable, they would be subject to stringent requirements mitigating potential impacts to visual resources, including mapped scenic roads/areas, consistent with LUP Policy 2.17.3 and LUP Objective 2.19a, and with the LCP's applicable visual resource protection policies (LUP Objectives 5.10a and 5.10b and LUP Policies 5.10.2 and 5.10.3).

Finally, the proposed amendments to the hosted vacation rentals component of the Temporary Uses chapter do not change the number of allowable hosted rentals (250), but instead clarify procedural requirements for hosted rentals. The amendment will support the continuation of hosted rentals, which are generally deemed a more affordable type of overnight accommodation that supports coastal tourism and fulfills LCP/Coastal Act requirements related to maximizing public access and recreational opportunities, consistent with LUP Objective 7.7a and LUP Policy 2.16.4.

The proposed amendments are diverse in scope, but generally serve to provide a simplified permitting pathway for a range of temporary uses/structures not otherwise addressed by the LCP. The IP Amendments with the suggested modifications can be found consistent with the certified LUP as it ensures that each temporary use/structure permit would also be authorized via a CDP if it is located within the coastal zone, meets the definition of development, and is not eligible for a CDP exemption. In this way, coastal resources will be adequately protected with the modified LCP provisions.

C. California Environmental Quality Act (CEQA)

Section 21080.9 of the California Public Resources Code—within the California Environmental Quality Act (CEQA)—exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of an LCP or LCP amendments. Instead, the CEQA responsibilities are assigned to the Coastal Commission; however, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP-related action.

Nevertheless, the Commission is required, in approving an LCP or LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform

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with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment (see California Code of Regulations Title 14 Sections 13540(f) and 13555(b)).

The County's LCP amendment consists of an IP amendment. As discussed above, the IP amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the LUP. The Commission has, therefore, suggested modifications to the proposed IP to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP amendment into conformity with the LUP consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts, and the proposed IP amendment, as modified, conforms with CEQA.