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# F15d

**Prepared January 22, 2021 for February 12, 2021 Hearing**

**To:** Commissioners and Interested Persons

**From:** Susan Craig, Central Coast District Manager  
Katie Butler, Coastal Planner

**Subject: De Minimis Amendment Determination for Proposed Pismo Beach LCP  
Amendment Number LCP-3-PSB-20-0074-2 (ADUs)**

## **Proposed LCP Amendment**

The City of Pismo 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 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 impact fees, more lenient ADU development standards (e.g., for requirements related to minimum parcel size, property line setbacks, Junior ADUs (JADUs)<sup>1</sup>, owner occupancy, etc.), and allowing both an ADU and a JADU on a single residential parcel. See **Exhibit 1** for the text of the proposed LCP changes.

## **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

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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 (see proposed IP Section 17.117.030.I: Junior Accessory Dwelling Unit in **Exhibit 1**).

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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 February 22, 2021).

**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:<sup>2</sup>

- Allow up to one ADU and one JADU on lots zoned to allow single-family residential use that are developed with existing or proposed detached or semi-detached single-family dwellings, with no minimum parcel size requirement and where such ADU units shall not be counted toward the overall density of the lot.
- Allow up to two detached ADUs and allow conversion ADUs<sup>3,4</sup> for up to 25% of the multifamily units (e.g., if it was a 100-unit complex, then up to 25 conversion ADUs would be allowed) where multifamily residential dwellings (e.g., apartments, condominiums, or townhomes) exist or are proposed.
- Prohibit ADUs and JADUs in the following locations: mobile home subdivisions, mobile home parks, and recreational vehicle parks; in the R-1 zone above the intersection of Longview Avenue and Stratford Street in the Pismo Heights planning area; and on slopes that exceed 20 percent.
- Require coastal development permits (CDPs) and building permits for all ADUs and JADUs.

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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 (see proposed IP Section 17.117.030.D in **Exhibit 1**).

<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) (see proposed IP Section 17.117.040C.2.b in **Exhibit 1**).

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- Require one off-street parking space for studio and one-bedroom ADUs and two off-street parking spaces for two-bedroom ADUs, in addition to the off-street parking required for the primary residential unit. No additional parking is required for JADUs. Required off-street parking may be provided as tandem parking on an existing driveway and within minimum required setback areas unless infeasible due to site specific conditions or regional, topographical, or fire/life safety conditions.
- Parking exceptions for ADUs may be allowed for the following: if the ADU is located within one-half mile walking distance of public transit or in an architecturally and significant historic district, or is part of the proposed or existing primary unit or accessory structure; when on-street parking permits are required but not offered to the occupant of the ADU; or when there is a carshare vehicle located within one block of the ADU. Parking exceptions for ADUs do not apply to properties that meet all of the following criteria: located within the coastal zone, west of U.S. Route 101, and within one-quarter mile (1,320 feet) walking distance to one of the following: a vertical access point to the beach; a segment of the Coastal Trail; a coastal park; or a coastal view area.
- ADUs are prohibited for short-term rental use.
- 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.
- Specify that the property owner shall permanently reside on the parcel in either the primary unit, ADU, or JADU (unless the property is owned by a government agency, land trust, or public or nonprofit housing organization), except for those units permitted between January 1, 2020 and January 1, 2025.<sup>5</sup>
- Specify a minimum unit size for ADUs and JADUs of 150 square feet; a maximum unit size for JADUs of 500 square feet; a maximum unit size for new construction ADUs of 850 square feet (studio or one-bedroom), 1,000 square feet (two-bedroom), or 50% of the primary unit, whichever is smaller; and a maximum unit size for conversion ADUs of 50% of the primary unit size. Regardless of these maximum unit sizes for ADUs, a new construction ADU must be allowed to be at least 800 square feet unless the applicant for the ADU proposes a smaller square footage.
- New construction ADUs are subject to all environmental buffers and constraints, including all requirements to protect coastal resources, under the Coastal Act and the LCP.
- ADUs and JADUs are subject to the applicable height requirements of the zoning district, dependent upon unit configuration, but not less than 16 feet unless otherwise identified in the City's LCP in order to protect coastal resources.

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<sup>5</sup> These dates are specified in AB 881.

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- Specify that ADUs and JADUs shall meet lot coverage and maximum building area requirements (i.e., which are cumulative with other development on the site), except that a new construction ADU of up to 800 square feet shall be allowed regardless of lot coverage and maximum building area.
- Ensure that new construction ADUs are designed to be compatible with the primary residence on a site.
- Ensure that new development shall comply with all local, state, or federal regulations that apply to the property, including the applicable requirements of the LCP.

As the Commission is aware, the state has a housing crisis, and in particular an affordable housing crisis, and this issue is 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, 2019'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 law changes. Importantly, the changes in state law continue to explicitly require that Coastal Act (and by extension LCP) coastal resource protections are not suspended when considering ADUs, and thus updated local government ADU provisions must continue to ensure coastal resource protections. 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, the City of Pismo Beach has done just that with this proposed LCP amendment. The California Department of Housing and Community Development (HCD), the agency charged with enforcing new ADU laws, has not stated any concerns regarding the proposed LCP amendment.

Specifically, a significant portion of the City consists of already-developed residential areas with adequate public services that may be appropriate for ADU development, both inside and outside of the coastal zone. Within the coastal zone, there are also substantial areas where ADUs could likely be developed without any impacts to most coastal resources. With respect to public coastal access and parking, much of the developed area of the City (and coastal zone) is located between Highway 101 and the sea. The City's shoreline contains a multitude of public beach access points, blufftop trails and overlooks, and blufftop parks, and much of the publicly available parking to access these resources is located on City streets. As such, 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 many areas of Pismo Beach in particular, there are few public parking lots and most

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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.

Pismo Beach'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. 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., a 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 to be located on-street in prime coastal visitor-serving destinations can significantly reduce public visitor access at such prime coastal visitor-serving destinations, especially in Pismo Beach where almost all shoreline visitor parking is on-street.

To address these issues, the proposed amendment relaxes parking requirements by eliminating off-street parking requirements for JADUs<sup>6</sup> but requires off-street (or onsite) parking for all ADUs located in the coastal zone, west of Highway 101, and within one-quarter mile (1,320 feet) walking distance to one of the following: a vertical access point to the beach, a segment of the Coastal Trail, a coastal park, or a coastal view area. These measures provide appropriate flexibility in Pismo Beach's coastal zone and appropriately reflect its unique visitor parking context while simultaneously helping to minimize some of the factors that can limit ADU development, including cost and limited land area. In other words, the elimination of required parking for JADUs and for ADUs not located in sensitive public visitor parking areas is an important piece of the proposed amendment that is designed to encourage more of this type of development while balancing public access parking needs. The amendment thus finds that right balance by being accommodating of ADUs while still protecting certain public parking resources in the County's unique coastal zone circumstance, and HCD has not indicated any concerns regarding this construct.

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<sup>6</sup> 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.

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The proposed amendment also provides for relaxed JADU and ADU development standards consistent with state law (e.g., reduced setbacks, excluding certain ADUs from lot coverage and density calculations) aimed at creating housing opportunities for low- and moderate-income households. This includes specific requirements for ADUs, including how they must be sited and designed, including requirements for size depending on ADU types (e.g., a minimum 150 square feet for ADUs and JADUs; a maximum of 500 square feet for JADUs; a maximum of 50 percent of the primary unit size for conversion ADUs; and a maximum of 1,000 square feet or 50 percent of the primary unit, whichever is smaller, for standalone ADUs). 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 no owner residency requirement for ADUs permitted between January 2020 and January 2025.

And finally, the amendment ensures that the rest of the LCP continues 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. Additionally, ADUs are not exempt from the requirement to obtain a CDP. Therefore, the amendment is consistent with Chapter 3 of the Coastal Act and will not adversely impact coastal resources.

### **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**

A notice of public hearing was posted at City Hall, on the City's website, published in the New Times (a local newspaper), and sent via email to the City's Planning Commission mailing list, all on September 10, 2020 in advance of the September 22, 2020 Planning Commission hearing. On September 24, 2020, a notice of public hearing was posted at City Hall, on the City's website, published in the New Times, and sent via email to the City's City Council mailing list in advance of the October 6, 2020 City Council hearing on the first reading of the proposed ordinance. On October 16, 2020, prior to the October 20, 2020 City Council hearing for the second reading and adoption of the ordinance, an email notice was sent to the City's City Council mailing list. In addition, as part of both the Planning Commission and City Council hearing processes, the proposed amendment's text was made available to the Planning Commission's mailing list and the City Council's agenda packet distribution list prior to its consideration in a hearing, and the text was also available for public inspection on the City's website in advance of the hearings. The proposed amendment was subsequently received by the Commission on

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November 4, 2020, and filed as complete on November 19, 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 review. In this case, the City 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 February 12, 2021 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 Susan Craig at the Coastal Commission's Central Coast District Office by email at Susan.Craig@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 Friday, February 5, 2021.

### **Procedural Note - LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on November 19, 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 16, 2021. Thus, unless the Commission

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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 16, 2021 to take a final action on this LCP amendment.

### **Exhibit**

Exhibit 1: Proposed LCP IP ADU amendment