

CALIFORNIA COASTAL COMMISSION

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Prepared January 21, 2022 (for February 11, 2022 Hearing)

To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
Rob Moore, Coastal Planner

Subject: Santa Cruz County LCP Amendment Number LCP-3-SCO-21-0093-2-Part B (CDP Waivers)

Proposed Amendment

Santa Cruz County proposes to modify the Implementation Plan (IP) component of its LCP to add section 13.20.051, which would add a De Minimis Waiver provision to the IP to help streamline the approval of development that does not raise significant coastal resource issues. Specifically, the proposed amendment would allow the County's Planning Director to issue a coastal development permit (CDP) waiver (i.e., waive the requirement for an otherwise required CDP) for certain types of development under specific circumstances, including: 1) the development is not appealable to the Coastal Commission; 2) the development has no potential for adverse effects on coastal resources; and 3) issuance of the waiver is subject to Executive Director concurrence. The proposed amendment also lays out procedural requirements, including that issuance by the Planning Director requires "concurrence by the Zoning Administrator (ZA)" at a public meeting; noticing and opportunities for public comment; issuance of a final notice to the Commission describing the waiver and its effectiveness; and that the waiver has a two year expiration date.

Minor LCP Amendment Determination

Pursuant to Title 14 of California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is "minor." 14 CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

14 CCR Section 13554(a). *Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.*

LCP-3-SCO-21-0093-2-Part B (CDP Waivers)

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third or more of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if less than one-third of the appointed members of the Commission object to the minor LCP amendment determination, then the amendment is deemed approved and it becomes a certified part of the LCP.

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is minor.

The proposed LCP amendment, by intent and design, is not expected to have any adverse impact on coastal resources and will serve to streamline the permitting process while retaining Commission oversight on these determinations. In order to determine that a project is eligible for a CDP waiver, the County must find that the development is fully in compliance with the LCP and that it has no potential for adverse impacts to coastal resources. In addition, the amendment includes appropriate Commission oversight by having each waiver be subject to review and approval by the Executive Director. If the Executive Director disagrees that a waiver is appropriate, then the project must go through the standard CDP review process. The proposed amendment also specifies that waivers cannot be issued for appealable development, thus maintaining normal CDP requirements and appeal routes for these especially sensitive designated areas and development types. And finally, the proposed amendment is consistent with and modeled after several other CDP waiver provisions recently certified by the Commission including the City of Capitola,¹ Marin County, and the City of Pacific Grove. As such, the proposed amendment does not change the kind, location, intensity, or density of use of land, and qualifies under the regulatory definition of a minor LCP amendment.

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, on October 20, 2021 the County issued a Notice of Exemption, exempting the proposed amendment from environmental review (citing CEQA Section 15061(b)(3)), stating that "the amendments present no possibility of a significant impact on the environment."

¹ The City of Capitola's CDP waiver provisions were certified as part of a larger LCP amendment on April 15, 2021.

LCP-3-SCO-21-0093-2-Part B (CDP Waivers)

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 minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its virtual meeting on February 11, 2022. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Rob Moore at the Coastal Commission's Central Coast District Office via email at Robert.Moore@Coastal.ca.gov. If you wish to comment on the proposed amendment and/or object to the proposed minor 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 5:00 p.m. on February 4, 2022.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on January 5, 2022. The proposed amendment affects the LCP's IP only, and the 60-working-day deadline for the Commission to take action on it is April 4, 2022. 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 April 4, 2022 to take a final action on this LCP amendment.

Therefore, if four or more Commissioners object to the Executive Director's determination that this amendment is minor, then staff recommends that the Commission vote to extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: I move that the Commission extend the time limit to act on Santa Cruz County Local Coastal Program Amendment Number LCP-3-SCO-21-0093-2-Part B to April 4, 2023, and I recommend a yes vote.

LCP-3-SCO-21-0093-2-Part B (CDP Waivers)

Exhibit 1: Proposed Amendment Text