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Prepared February 18, 2022 for March 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-21-0085-2-Part A (ADU Ordinance Update)

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County proposes to amend the Implementation Plan (IP) component of its Local Coastal Program (LCP) to update certain provisions related to accessory dwelling units (ADUs). The proposed changes are meant to serve as refinements to County ADU regulations that were recently certified by the Coastal Commission in May of 2020 in response to new state ADU laws. As such, they should be understood as a relatively minor refinement to the County's recently updated ADU provisions, with most of the changes applying only outside of the coastal zone. Key requirements for preservation of agricultural and rural lands, as well as core LCP objectives related to protecting sensitive coastal resources such as wetlands, sensitive habitats, and bluffs/beaches, remain in effect and unchanged.

The most substantive proposed change in the coastal zone is with respect to off-street parking requirements. The existing LCP does not require off-street parking for any junior ADU¹ (JADU) or conversion ADU²; requires a parking space for new construction ADUs³ in the entirety of the coastal zone (including in the Live Oak, Seacliff/Aptos, and

¹ A 'JADU' is defined, in part, as a residential living area contained within a proposed or existing single-family residence that is no more than 500 square feet in size.

² 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, for the purpose of creating an ADU.

³ A 'new construction ADU' is defined as an ADU that does not meet the definition of Conversion ADU.

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Davenport/Swanton Designated Areas⁴, referred to as the DASDA/LODA/SALSDA areas) with a few exceptions⁵; and requires replacement parking for all ADU types when an ADU replaces or converts an existing garage, carport, or covered parking structure. The proposed amendment modifies these parking requirements, including by: 1) adding the Opal Cliff Drive corridor from 41st Avenue to the City of Capitola border in the Pleasure Point neighborhood to the areas where most types of ADUs need to satisfy parking needs off-street (referred to herein as the DASDA/LODA/SALSDA/OCD areas); 2) requiring JADUs and conversion ADUs to only require replacement parking⁶ within the DASDA/LODA/SALSDA/OCD areas; 3) requiring all new construction ADUs within the DASDA/LODA/SALSDA/OCD areas to provide both an off-street parking space and replacement parking with no exceptions; and 4) allowing new construction ADUs in the coastal zone but outside of the DASDA/LODA/SALSDA/OCD areas to not require off-street parking if they meet certain criteria, including being located within ½ mile walking distance of public transit.

The proposed parking modifications serve to hone in on the standards applicable in the County's core urbanized neighborhoods where on-street beach parking is in limited supply and high demand. The amendment further tailors such parking needs and differentiates between these areas and other areas where ADU parking may be satisfied on-street because impacts to public recreational access are more limited due to lower demand. For example, new construction ADUs within the area around the highly popular Pleasure Point neighborhood centered along Opal Cliff Drive are now required to satisfy parking needs off-street, thereby addressing potential conflicts with beach users in this area. Conversely, replacement parking is not required outside of the DASDA/LODA/SALSDA/OCD areas where parking demand and potential impacts to beach users is low. These changes should all be understood as refinements to the IP's existing ADU parking requirements, are meant to more precisely pinpoint parking requirements by geography and parking impact, and should help to facilitate ADU construction in a manner without significant impacts to public coastal access.

⁴ The Davenport/Swanton Designated Area (DASDA), Live Oak Designated Area (LODA), and Seacliff/Aptos/La Selva Designated Area (SALSDA) were identified by the County in 2011 (with SALSDA including La Selva Beach after 2020) as communities where specific vacation rental provisions are implemented under the LCP. They are all areas with high demand for coastal visitor-serving recreational opportunities. As such, when crafting the ADU ordinance in 2020, the County used these geographies to demarcate where coastal access parking is in high demand and thus where certain ADUs need to satisfy their parking needs off-street.

⁵ Namely if an ADU is located within one-half mile walking distance of any public transit stop (except that this allowance is inapplicable within the DASDA/LODA/SALSDA areas), is located within a designated architecturally and historically significant historic district, or if there is a dedicated parking space reserved for a car share vehicle within one block of the ADU.

⁶ "Replacement parking," under the proposed language, refers to new parking provided when a garage, carport, covered parking structure, or surface parking associated with an existing residence is demolished or converted for construction of an ADU or JADU.

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In sum, the proposed IP amendment can be found consistent with and adequate to carry out the LUP and staff recommends that the Commission approve the amendment as submitted. The required motion and resolution are found on page 5 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on February 18, 2022. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline is May 13, 2022. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until May 13, 2022 to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission 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-21-0085-2-Part A to May 13, 2023, and I recommend a yes vote.

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EXHIBITS

Exhibit 1: Proposed IP Amendment

Exhibit 2: Maps of Davenport/Swanton (DASDA); Live Oak (LODA); Seacliff/Aptos/La Selva (SALSDA); and Opal Cliff Drive Parking Areas (DASDA/LODA/SALSDA/OCD)

Exhibit 3: LCP ADU Agricultural Protection Provisions

I. Motion and Resolution

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment as submitted. The Commission needs to make the following motion in order to act on this recommendation.

Certify the IP Amendment as Submitted

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission reject Implementation Plan amendment LCP-3-SCO-21-0085-2-Part A as submitted by Santa Cruz County, and I recommend a **no** vote.*

Resolution: *The Commission hereby certifies Implementation Plan amendment LCP-3-SCO-21-0085-2-Part A for Santa Cruz County and adopts the findings set forth below on the grounds that the Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan 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 Implementation 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.*

II. Findings and Declarations

A. Background

In May of 2020 the Commission certified updates to the Implementation Plan provisions of Santa Cruz County's LCP related to ADUs. The amendment's impetus was 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. These ADU laws authorize local governments to establish ordinances regulating ADUs and to establish minimum requirements for ADUs that, in general, are designed to streamline their review and approval so as to help alleviate severe housing shortages throughout California. The County's updated ADU provisions provided for ADUs and Junior ADUs (JADUs) in certain zoning districts where residential use is allowed, specified the maximum numbers of ADUs/JADUs allowed per parcel, streamlined ADU/JADU review and permit processing, and provided ADU/JADU development standards (e.g., related to setbacks, parking, owner occupancy, etc.).

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B. Description of Proposed LCP amendment

The proposed amendment would make a series of new updates to the County's recently updated and certified ADU provisions. The intent is to refine certain substantive and procedural parameters in response to lessons learned in ADU regulation since the initial ADU amendment approval in 2020, as well as to better conform with guidance on ADU implementation from the California Department of Housing and Community Development (HCD)⁷. In addition to general cleanup and reorganization, most of the proposed changes are applicable only outside of the coastal zone, including in terms of modifying non-CDP permit processes⁸ and eliminating certain standards for ADU development on agricultural and other rural lands. Inside the coastal zone, the County retained existing requirements and findings for ADUs on these lands, including required findings that ADUs on agriculturally-zoned properties protect and do not conflict with continued agricultural production and minimize any loss of productive lands⁹. In addition to these requirements, the proposed amendment retains provisions to ensure that ADUs on agricultural lands are clustered with existing residences (i.e., within no more than 100 feet of an existing residence) so as to further minimize land disturbance and protect soils and agricultural economies.

The most substantive proposed change in the coastal zone is with respect to off-street parking requirements. The existing LCP does not require off-street parking for any JADU or conversion ADU, requires a parking space for new construction ADUs in almost the entirety of the coastal zone (including in the Live Oak, Seacliff/Aptos, and Davenport/Swanton Designated Areas, referred to as the DASDA/LODA/SALSDA areas) with a few exceptions¹⁰, and requires replacement parking for all ADU types when such ADU replaces or converts an existing garage, carport, or covered parking structure. The proposed amendment modifies these parking requirements. The

⁷ Including HCD's release in September 2020 and again in December 2020 of an updated "ADU Handbook" that clarifies and interprets the provisions of the state ADU laws that went into effect in 2020 and serves as guidance for local government implementation.

⁸ For example, the amendment changes the permit requirements in the Commercial Agriculture, Timber Production, and Parks, Recreation, and Open Space zoning districts by only requiring a Building Permit outside the coastal zone. However, in the coastal zone, the LCP's specific ADU CDP processing requirements specified in IP Sections 13.20.107 and 13.20.108 remain unchanged and in effect.

⁹ As required in IP Section 13.10.314(A) and (B) (see **Exhibit 3** for this language) for new development (including ADUs) in the Commercial Agriculture zoning district, one of the LCP primary's agricultural production zones (note that ADUs are not allowable—currently or as proposed here—in the Agricultural Preserve zoning district). The amendment also retains the special findings required for ADUs within Parks and Recreation and Timber Production zoning districts as well.

¹⁰ Namely if an ADU is located within one-half mile walking distance of any public transit stop (except that this allowance is inapplicable within the Davenport/Swanton, Live Oak, or Seacliff/Aptos Designated Areas), is located within a designated architecturally and historically significant historic district, or if there is a dedicated parking space reserved for a car share vehicle within one block of the ADU.

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DASDA/LODA/SALSUDA areas are expanded to include the Opal Cliff Drive (OCD) corridor from 41st Avenue to the City of Capitola border in the Pleasure Point neighborhood (now known as the DASDA/LODA/SALSUDA/OCD areas). As proposed, JADUs and conversion ADUs still do not require any off-street parking, but they now require replacement parking only if they are located within the DASDA/LODA/SALSUDA/OCD areas. And all new construction ADUs within the DASDA/LODA/SALSUDA/OCD areas require both an off-street parking space and replacement parking with no exceptions. New construction ADUs outside of these areas do not require off-street parking if they meet certain criteria, including being located within ½ mile walking distance of public transit¹¹. In short, the proposed amendment seeks to refine existing ADU parking standards and is meant to more precisely target parking requirements within the urbanized portion of the County.

Finally, the amendment includes a few other changes to further facilitate ADU construction, including elimination of an existing prohibition on separate driveway access for ADUs within the urbanized portion of the coastal zone and a change in the definition of “conversion ADU” to include “demolition and rebuilding of a structure within the same footprint and building envelope” except when non-conforming with respect to certain coastal resource protection required setbacks and buffers (e.g., related to bluffs, ESHA, and wetlands—in such cases, the rebuilt structure would need to conform with applicable setback requirements).

Please see **Exhibit 1** for the proposed IP amendment text. See **Exhibit 2** for maps of the DASDA/LODA/SALSUDA/OCD areas. See **Exhibit 3** for the LCP’s ADU agricultural protection provisions.

C. Consistency Analysis

Standard of Review

The proposed amendment affects the IP component of Santa Cruz County’s LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified Land Use Plan (LUP) (see Coastal Act Sections 30513 and 30514(b)).

IP Consistency Analysis

Applicable LUP Policies

Santa Cruz County’s LUP contains principles and policies that provide for public access to and along the shoreline. This includes a number of policies related to parking and its role in facilitating public access to the coast, as well as identifying important public access points that merit enhanced attention and protection.

¹¹ Or located within a designated architecturally and historically significant historic district, or if there is a dedicated space reserved for a car share vehicle within one block of the ADU.

Objective 7.7a Coastal Recreation

(LCP) 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.

Objective 7.7b Shoreline Access

(LCP) To provide a system of shoreline access to the coast with adequate improvements to serve the general public and the coastal neighborhoods which is consistent with the California Coastal Act, meets public safety needs, protects natural resource areas from overuse, protects public rights and the rights of private property owners, minimizes conflicts with adjacent land uses, and does not adversely affect agriculture, subject to policy 7.6.2.

Policy 7.7.14 Primary Public Access Points

(LCP) Primary public access points shall be developed only when they can provide automobile parking or an acceptable alternative, and when all environmental impacts and use conflicts can be satisfactorily mitigated, subject to policy 7.6.2.

7.7.16 Improvements at Primary Access Points

(LCP) Provide, encourage provision of, and/or require as a condition of new development approval, subject to policy 7.6.2, the following improvements at primary destinations: path improvements and maintenance; recycling, garbage collection; automobile parking, or in an impacted neighborhood, an acceptable alternative such as beach shuttle; bicycle parking; transit service; access provisions for disabled if feasible; restrooms; law enforcement; scenic overlooks if appropriate; safety signs if needed, and identification signs.

Analysis

As described previously, the proposed amendment should be understood as a relatively minor refinement to the County’s recently updated ADU provisions, with most of the changes applying only outside of the coastal zone. Key requirements for preservation of agricultural and rural lands, as well as core LCP objectives protecting sensitive coastal resources such as wetlands, sensitive habitats, and bluffs/beaches, remain in effect and unchanged. For example, with respect to agricultural lands, the proposed amendment retains existing protections by ensuring that ADUs are clustered with existing residential development, including to minimize land disturbance and economize on existing infrastructure.¹² In terms of the limited proposed changes in the coastal zone, including

¹² The LCP is fiercely protective of agricultural lands, with strict findings that any new development “will not reduce, restrict, or adversely affect agricultural resources” and that “the use will be sited to remove no land from production (or potential production)...” (see Exhibit 3). And residential development, including ADUs, on agricultural lands is permissible only if there remains an economically viable farmable portion of

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to certain site development standards, these too do not raise coastal resource or LUP conformity issues. For example, while the proposed amendment would now allow a separate driveway for ADU access within urbanized neighborhoods, existing LCP requirements remain in effect to ensure such new driveways/curb cuts do not usurp public parking spaces¹³. And while the proposed amendment would allow a conversion ADU to be built on a rebuilt house that maintains existing nonconformities,¹⁴ such allowance is explicitly not allowed when those nonconformities relate to coastal resource issues such as required setbacks from wetlands and coastal bluffs.

Finally, with respect to parking, the amendment makes several modifications to hone in on the standards applicable in the County's core urbanized neighborhoods where on-street beach parking is in limited supply and high demand. The amendment further tailors such parking needs and differentiates between these areas and other areas where ADU parking may be satisfied on-street because impacts to public recreational access are more limited. For example, new construction ADUs within the area around the highly popular Pleasure Point neighborhood centered along Opal Cliff Drive are now required to satisfy parking needs off-street, thereby addressing potential conflicts with beach users in this area. Conversely, replacement parking is not required outside of the DASDA/LODA/SALSDA/OCD areas where street parking is in lower demand and thus impacts to beach users are low. These changes should all be understood as refinements to the IP's existing ADU parking requirements, are meant to more precisely pinpoint parking requirements by geography and parking impact, and should help to facilitate ADU construction in a manner without significant impacts to public coastal access.

In conclusion, the proposed LCP amendment consists of minor adjustments to the County's recently updated ADU ordinance to reflect lessons learned since the certification and implementation of the last LCP amendment on ADUs and the new guidance from HCD on State ADU laws. Most changes do not take effect in the coastal zone, and those that do continue to protect both coastal resources and public recreational access as required by the LUP. For these reasons, the proposed IP amendment can be found consistent with and adequate to carry out the LUP.

the parcel or an agricultural easement is in place that ensures that the parcel will remain used for agricultural production purposes. These provisions, in tandem with clustering requirements (i.e., that the ADU be located within no more than 100 feet of an existing residence) all serve to ensure that ADUs will further agricultural production and limit any site disturbance, including by being located within existing developed portions of the parcel/farm.

¹³ For example, the County caps driveway widths at no more than 50 percent of the residential parcel's frontage so as to ensure that the remaining frontage does not usurp public street parking and right-of-way (see, for example IP Section 13.10.554(D)).

¹⁴ As allowed per State ADU law (see Government Code Section 65852.2(e)(2)).

D. 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 May 17, 2021, the County exempted the proposed amendment from environmental review, citing CEQA Section 15282(h), which exempts adoption of an ordinance regarding second units in a single-family or multifamily residential zone to implement provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resource Code.

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, has addressed all comments received, and has concluded that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein (all above findings are incorporated herein in their entirety by reference). Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified 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).