

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
WEB: WWW.COASTAL.CA.GOV



W15a

Prepared October 27, 2023 for November 15, 2023 Hearing

To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
Kiana Ford, Coastal Planner

Subject: City of Santa Cruz LCP Amendment Number LCP-3-STC-23-0006-1-Part B (Objective Design Standards and Code Cleanup)

SUMMARY OF STAFF RECOMMENDATION

The City of Santa Cruz proposes to amend portions of its Local Coastal Program (LCP) Implementation Plan (IP) by modifying IP chapters that establish objective design standards for multi-family dwellings and mixed-use residential development, as well as a series of other miscellaneous 'clean-up' of other IP sections to fix errors and ensure compliance with various new State and Federal laws. The proposed changes related to objective design standards are intended to encourage multi-family and mixed-use housing production by creating standards applicable to all such projects. The proposed amendment would not affect objective standards already in place in the LCP (e.g., related to building height, setback, floor area ration, and density); rather, it would make some of the IP's existing subjective standards related to things such as landscaping, building materials, and overall aesthetics into objective ones, which is intended to facilitate a more streamlined review of such development proposals by making the required standards more clear for all parties involved in the development review process. An applicant may elect to apply such standards to their proposed project and receive a more streamlined review process, or may elect not to and instead continue to apply the existing IP's more subjective criteria and permit processes. In all cases, however, existing CDP requirements, including in terms of findings and public hearings for certain projects, remain unchanged.

The proposed IP amendment provides additional clarity regarding the design aesthetic of new multi-family and mixed-use residential projects, which should help result in better implementation and an improved design aesthetic overall. The amendment would ensure that new development includes high quality design on a variety of issues (e.g., related to landscaping, visual screening, building materials, pedestrian connections, and related concerns) all meant to clearly establish a common baseline design aesthetic. All new housing, except for new single-family homes and new accessory dwelling units (ADUs), would be eligible to make use of the objective design standards, intended to help facilitate a streamlined review process. All existing development standards,

including in terms of height, setback, and density/intensity of use, remain unchanged. And within the coastal zone, existing LCP requirements related to CDP findings, public hearings, and LCP consistency review would also continue to apply. The City's proposal only affects certain design criteria and does not in any way modify core coastal resource protection provisions, including related to coastal hazards and required bluff setbacks, wetlands/sensitive habitats and their required setbacks, and public coastal access. As such, the amendment should not have any adverse impact on these resources, and should only help facilitate better designed projects in the coastal zone. The proposed design standards can thus be found consistent with and adequate to carry out the LUP.

Lastly, as noted above, the proposed amendment touches a handful of other miscellaneous IP sections, none of which raise any substantive coastal resource or LUP consistency concern. The amendment also includes some changes to the IP's permit processing provisions. And while the proposed changes themselves mostly relate to other types of local approvals and don't raise any problems, the amendment offers an opportunity to fix some of the known issues regarding a lack of clarity on certain CDP processing requirements. Commission staff and City staff worked together to craft language to address these points and thus to provide better clarity moving forward, including related to CDP appeals processes, fees, and CDP amendments. **Suggested Modifications 1 and 3** clarify appeal procedures for CDPs via adding language stating that one must exhaust the local appeal process in order to appeal a CDP to the Commission and also clarify that the City does not charge a fee for appeals of CDPs unaccompanied by other local permits, and **Suggested Modification 2** clarifies CDP procedures for processing certain changes to CDP terms and conditions. The City is in agreement on such language.

In sum, the amendment should provide for high quality new objective development standards, and in a manner that respects and protects coastal resources. As modified, the proposed amendment is consistent with and adequate to carry out the Land Use Plan (LUP), the standard of review for this IP amendment, and the City has indicated it is in agreement with the staff recommendation. Therefore, staff recommends that the Commission approve the amendment with the suggested modifications. The required motions and resolutions are found on page 5 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on October 10, 2023. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline is December 9, 2023. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until December 9, 2023 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

LCP-3-STC-23-0006-1-Part B (Objective Design Standards and Code Cleanup)

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 City of Santa Cruz Local Coastal Program Amendment Number LCP-3-STC-23-0006-1-Part B to December 9, 2024, and I recommend a yes vote.

TABLE OF CONTENTS

1. MOTIONS AND RESOLUTIONS **5**
 A. Deny the IP Amendment as Submitted..... **5**
 B. Certify the IP Amendment with Suggested Modifications **5**
2. SUGGESTED MODIFICATIONS..... **6**
3. FINDINGS AND DECLARATIONS **7**
 A. Description of Proposed LCP Amendment **7**
 B. Evaluation of Proposed LCP Amendment **8**
 C. California Environmental Quality Act (CEQA)..... **11**

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 rejection of the Implementation Plan Amendment 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-STC-23-0006-1-Part B as submitted by the City of Santa Cruz.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-STC-23-0006-1-Part B as submitted by the City of Santa Cruz 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 the 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 staff 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-STC-23-0006-1-Part B as submitted by the City of Santa Cruz if it is modified as suggested in this staff report.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-STC-23-0006-1-Part B, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, 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 Implementation Plan amendment, which is necessary to make the requisite Land Use Plan consistency findings. If the City of Santa Cruz accepts the suggested modifications within six months of Commission action (i.e., by May 15, 2024), by formal resolution of the City Council, 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 underline format denotes proposed text to be deleted/added by the City. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

1. Modify IP Section 24.04.130 (Decision-Making Body with Final Authority on Application Approval) subsection 3 as follows:

Modify the asterisks in the table to reflect the corresponding footnote number at the end of the table (see pages 3-7 of **Exhibit 1**).

Add the following text as an additional footnote at the end of the table, beneath footnote four (see page 7 of **Exhibit 1**):

⁵ An appellant must exhaust all local appeals before an appeal can be made to the California Coastal Commission, unless the Coastal Permit is processed concurrently with other permits pursuant to Section 24.04.150 (for example, a Design Permit, a Use Permit, etc.). Because the City charges an appeal fee pursuant to Section 24.04.070 for appeals of Coastal Permits processed concurrently with other permits, Section 30603(c) of the Coastal Act does not require an appellant to exhaust all local appeals before a project can be appealed to the California Coastal Commission. The City does not charge a fee for local appeals of standalone Coastal Permits (i.e., where the Coastal Permit is not accompanied by any other permits).

2. Modify IP Section 24.04.160 (Life of Permit) as follows:

Add new part d to subsection four (see page 9 of **Exhibit 1**) in Section 24.04.160.4:

d. Any modification to projects involving a Coastal Permit shall be found consistent with the certified Local Coastal Plan and shall follow the Notice of Final Action procedures included in Section 24.08.260.

3. Modify IP Section 24.04.182 (Procedure for Appeals) as follows:

Modify the text of subsection one (see page 9 of **Exhibit 1**):

24.04.182 PROCEDURE FOR APPEALS.

- 1. A written notice of appeal, together with the appropriate fee, except development projects which only require a Coastal Permit that is ~~are~~ appealable to the Coastal Commission where no fee will be charged, must be received by*

the secretary to the zoning board or the city clerk not later than ten calendar days following the date of action from which such appeal is being taken, unless otherwise specified in this chapter. If the final day for filing an appeal occurs on a weekend day or holiday the final filing date shall be extended to the following workday.

3. FINDINGS AND DECLARATIONS

A. Description of Proposed LCP Amendment

The City proposes to amend the Implementation Plan (IP) component of its Local Coastal Program (LCP) by modifying certain IP chapters (i.e., Chapters 24.04, 24.08, 24.10, and 24.12) to establish objective standards for the required designs for multi-family dwellings and mixed-use residential development, and to make other miscellaneous changes to clarify and update IP provisions, remove obsolete text, and ensure conformance with other State and Federal laws on a variety of topics/issues.

More specifically, the proposed changes related to objective design standards are intended to encourage multi-family and mixed-use housing production by creating clear standards applicable to all such projects by quantifying and standardizing some of the IP's existing subjective requirements. Similar to other LCPs, the City's existing IP includes a set of objective site design standards that all development must meet depending on the type of project and its zoning district/location, including for height, setback, floor area ratio, density, and parking. These objective standards are then augmented with a series of other more subjective ones, including overall aesthetics and performance standards for neighborhood compatibility and community design. The proposed amendment does not change any existing objective IP standard related to these basic site planning requirements, but rather further fleshes out some of the more subjective ones with the goal of providing more certainty and clarity for all parties involved on how to effectively implement such requirements. The amendment specifies objective and/or numeric standards for a variety of site planning topics, including required landscaping, lighting, parking screening, building materials, roof form, public/active frontages, and similar design issues for multi-family and mixed-use residential structures.¹ For example, while the existing IP broadly regulates landscaping, the proposed amendment requires open space in front setback areas of residential districts to be at least 75% landscaped. Similarly, with respect to building materials and other design techniques, the amendment specifies that no single material (e.g., tile, brick, glass, concrete, stucco, etc.) may make up more than 85% of any building face. The intent is to have these existing subjective standards the City typically uses to evaluate projects become more objective ones, for which the ultimate goal is to make as many design standards as possible more readily discernible to developers and the general public, which would in turn help facilitate more streamlined review and processing. Projects that fully utilize these objective design standards would then be

¹ Per the requirements of Senate Bill (SB) 167 and SB 330, as discussed in more detail subsequently.

eligible for administrative review and not subject to a public hearing²; additionally, projects that seek to vary from a certain number of objective design standards would trigger review by different advisory bodies, depending on the number of deviations proposed³. And finally, projects that don't avail themselves at all of these objective design criteria may still utilize existing subjective IP requirements and follow all existing permit reviews. In other words, the City's proposal offers a choice to project applicants: they can avail themselves of some, all, or none of the objective design standards and protocols. In all cases, however, all existing CDP requirements, including in terms of conformance with all applicable LCP provisions and required hearings⁴ and findings, remain applicable and unchanged.

Lastly, the amendment includes a number of other changes, including error fixes and deletions as well as updates in response to changes in State and Federal laws⁵. These changes affect particular land use types, but do not modify any existing coastal resource protection requirements.

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 City's LUP includes provisions aimed at ensuring quality building design in keeping with existing neighborhood community character. Specifically, the LUP states:

Community Design Element Policy 1.1.2: Develop design criteria to ensure compatibility of infill development with existing neighborhoods and proposed development patterns (including intensities and land uses.)

² Development proposals which require other permits (such as a Coastal Permit) may trigger other public hearing requirements even if the proposal is fully compliant with the objective design standards.

³ Specifically, development proposals seeking to deviate from no more than five objective design standards would be subject to a public hearing and review by the Zoning Administrator, while development proposals seeking to deviate from more than six objective design standards would be subject to a public hearing and review by the Planning Commission.

⁴ Including, for example, a required public hearing for all proposed CDPs that are appealable to the Coastal Commission. In this case, even if the applicant meets all of the objective design standards, a public hearing for the proposed development is still required per the IP's CDP review procedures.

⁵ For example, the amendment includes changes to: the requirement for a Condition Driveway Permit for ADUs; public hearing requirements for "Low Risk Alcohol Permits"; allowance of large Family Daycare Homes in residential units; defining a children's play structures as types of Accessory Buildings; and revisions to various definitions, including for Family Daycare Homes.

Community Design Element Policy 3.6: *In pedestrian areas, require building design to be responsive to the pedestrian environment...*

Community Design Element Policy 3.7: *Require development to incorporate features to promote pedestrian use including new linkages to the pedestrian system.*

Land Use Element Policy 2.4.2: *Evaluate provisions dealing with “nonconforming” regulations to achieve the flexibility necessary to deal with future uses of existing buildings and evaluate the feasibility of providing incentives to encourage the desired type of development.*

Land Use Element Policy 2.6.5: *Protect neighborhood quality through improvement of blighted areas, traffic management, design guidelines, adequate buffers, and other development techniques.*

Consistency Analysis

Historically, zoning codes and design guidelines were developed to be flexible and allow interpretation on a case-by-case basis. The State determined that subjective design standards and guidelines could negatively impact the development of housing amidst a growing housing crisis in California, which is particularly acute in coastal communities including the City of Santa Cruz. Accordingly, Senate Bill (SB) 167⁶ and SB 330⁷, which were adopted in 2017 and 2019, respectively, require local agencies to develop more objective design standards to provide more clarity on design issues in the housing review process. These bills also make clear that they do not supersede or override the Coastal Act and the CDP review process in the coastal zone, and thus, similar to other State laws, must be harmonized as much as possible. The City’s proposed amendment is to be reviewed under this lens.

Objective design standards are typically measurable and demonstrable and use language such as “shall” and “must”. Subjective design guidelines are typically open to interpretation and not readily measurable and use words such as “should” or “may”. The intent of objective design standards is to provide specific standards that will make clear to developers, design professionals, applicants, city staff, decision-makers, and the public what will be used in review of project submittals. Other local governments⁸ have adopted similar objective design standards in the coastal zone in an effort to respond to State housing law and ensure that new development is compatible with local jurisdictions’ community vision and Coastal Act requirements.

⁶ See SB 167, Housing Accountability Act, Government Code Section 65589.5.

⁷ See SB 330, Housing Crisis Act, Government Code Section 65589.5 et seq.

⁸ See City of Capitola LCP amendment LCP-3-CAP-22-0036-1-Part A and City of Encinitas LCP amendment LCP-6-ENC-22-0013-1.

The proposed IP amendment appropriately marries objective design standards with Coastal Act requirements by providing an additional level of clarity regarding the implementation of certain existing subjective requirements, as well as retaining all existing CDP reviews/requirements. The proposed standards provide more clarity on how to effectively implement existing LCP standards, which should result in better designed projects and a more streamlined review process, all of which are good things under the LCP and Coastal Act. The standards would apply to all areas of the City (except for Downtown, which has its own set of LCP-certified objective design standards⁹), and all new housing (except for new single-family homes and new accessory dwelling units (ADUs)) would be eligible to make use of the objective design standards and associated streamlined permit processing. As discussed earlier, within the coastal zone, all existing objective development standards in the LCP will continue to apply and remain unchanged, and augmented via additional numeric/objective criteria related to issues such as architectural elements, pedestrian connections, and landscaping to ensure that new residential developments maintain a design quality reflective of the community character.

Additionally, existing LCP requirements related to CDP findings, public hearings, and LCP consistency¹⁰ review would also continue to apply. Because the City is not proposing to alter existing development standards or any certified resource protection measures in the LCP, the proposed amendment should not result in any adverse impacts to wetlands, sensitive habitat, designated viewsheds, or coastal access and recreation, and should help result in better-designed projects. In short, the proposed objective design standards can be found consistent with and adequate to carry out the LUP.

Lastly, as discussed, the proposed amendment also includes a number of modifications to the IP that can be best described as ‘clean-up.’ These changes relate to various issues such as Family Daycares, children’s play structures, driveway requirements for ADUs, and other issues that affect particular land use types. These changes overall do not affect core coastal resource issues. However, some of the proposed changes are to the IP’s permit review procedures. While the changes themselves are appropriate and generally refer to other local authorizations (e.g., a ‘Conditional Driveway Permit’ for ADUs), the amendment offers an opportunity to address some known quirks/problems related to CDP processing, namely related to CDP appeals processes and fees and how to process minor changes to CDPs. Commission staff worked with City staff to propose mutually agreeable language to fix such issues and provide additional clarity on these points. Specifically, **Suggested Modification 1** clarifies appeal procedures for CDPs by clearly stating that one must exhaust the local appeals process in order to appeal a CDP to the Commission for CDPs that the City does not charge an appeal fee

⁹ See LCP-3-STC-17-0016-1-Part B (Downtown Plan).

¹⁰ Given this, it should be noted that CDP reviews still maintain a certain degree of subjectivity, including conformance with LUP policies that seek to protect overall design aesthetics, public views to and along the ocean, and community character. Thus, while the amendment goes a long way to help provide objective standards for many design issues, there will always remain a certain level of discretionary project analysis so as to ensure LCP consistency.

for, and **Suggested Modification 3** further clarifies fee requirements for appeals, noting that the City does not charge a fee for local CDP appeals in cases where no other local permits are required (i.e., a Conditional Use Permit, a Design Permit, etc.). Finally, **Suggested Modification 2** clarifies that typical CDP procedures apply to minor modifications (including LCP consistency review, noticing, and that new Final Local Action Notices shall be sent).

Therefore, as modified and in conjunction with other objective standards already present in the LCP, the proposed amendment should not result in any adverse coastal resource impacts and should result in quality design standards throughout the City. The standards seek to improve neighborhood quality and connections, including designing new multi-family and mixed-use residential development to be pedestrian-oriented, while providing developers with an incentive to utilize the objective design standards in the form of streamlined approval. In sum, the amendment should provide for high quality new objective development standards, and in a manner that respects and protects coastal resources, and with an aim to encourage and facilitate multi-family and mixed-use housing development and more streamlined processing of such much needed housing. The Commission thus finds the proposed amendment as modified is consistent with and adequate to carry out the policies of the LUP.

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 LCPs and 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 or LCP amendment 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 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 City of Santa Cruz's LCP amendment consists of an IP amendment. The City of Santa Cruz found that the proposed LCP amendment is not subject to CEQA because it falls within the analyzed development potential in the City's existing 2030 General Plan EIR, and thus additional environmental review is unwarranted. This report has discussed the relevant coastal resource issues with the proposal, and has addressed all comments received. All above findings are incorporated herein in their entirety by reference.

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.