

CALIFORNIA COASTAL COMMISSION

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F8a

MEMORANDUM

Date: February 9, 2023

To: Commissioners and Interested Persons

From: Shana Gray, Deputy Director
Melissa Kraemer, District Manager

Subject: Second Addendum for Commission Meeting for Friday, February 10, 2023
Item F8a, County of Humboldt LCP Amendment No. LCP-1-HUM-21-0067-3 (Accessory Dwelling Units)

This second addendum to the staff recommendation of January 26, 2023 presents additional suggested modifications and associated findings. The added suggested modifications and related findings relate to two issues: (1) proposed IP section 313-69.05.3.4, which relates to a prohibition on the use of either the primary dwelling or the ADU for short-term lodging (see [Appendix A page 8 of 33](#)); and (2) section 69.05.4.3.1, which relates to total floor area and allows the permitting with a Special Permit of ADUs that exceed 1,200 square feet in size (see [Appendix A page 12 of 33](#)).

Regarding the short-term rental issue, staff agrees with the County's inclusion in the ordinance of the prohibition on the use of either the primary dwelling or the ADU for short-term lodging. However, staff suggests strengthening the standard to require recordation of a deed restriction that would prohibit such use. In this way, future property owners would be notified of the use restrictions. This is especially important on agricultural lands and timberlands, where without a mechanism for putting future property owners on notice of the restrictions on the use of the dwellings, the expectation that such uses may be available could drive up land costs and over time discourage maintenance of agricultural/timber operations, which would be inconsistent with LUP directives to protect agricultural lands and timberlands and their long-term productivity.

Regarding the total floor area issue, inclusion of the provision allowing ADUs to exceed 1,200 square feet, with no maximum size specified, could result in excessively large ADUs on agricultural lands and timberlands, which again, would not serve to protect the long-term productivity of agricultural and timber production. Conflicts could arise via large non-agricultural/non-timber-production-related structures reducing infrastructure and services that would otherwise be available for agricultural/timber production

activities; encouraging uses that cumulatively erode rural and resource production uses in the long-term; and driving up land costs that ultimately discourage maintenance of agricultural/timber operations. Therefore, staff recommends removing the total floor area exceedance allowance.

Staff conferred with County staff on these added suggested modifications, and the County Planning Director indicated his agreement with the added changes. Therefore, staff continues to recommend that upon completion of the public hearing, the Commission: (1) certify the Land Use Plan portion of LCP Amendment No. LCP-1-HUM-21-0067-3 as submitted; (2) reject the Implementation Plan (IP) portion of LCP Amendment No. LCP-1-HUM-21- 0067-3 as submitted; and (3) certify the IP portion of LCP Amendment No. LCP-1-HUM-21- 0067-3 if modified in accordance with the suggested changes set forth in the staff report, as modified by this addendum.

Bullets below reference page numbers of the January 26, 2023 staff report where changes are made. Text to be added to the Suggested Modifications and Findings is shown in underline format (except within the suggested modification text changes of section 69.05.3.4, where the County’s proposed language is shown in plain text, and additional suggested modification presented in this addendum is shown in **bold double underline** text).

I. Changes to the Suggested Modifications

- **Page 13:** Add Suggested Modifications #7 & 8 to page 13, as follows:

Suggested Modification 7 (Deed Restriction Prohibiting Short-Term Rentals) – Modify IP section 313-69.05.3.4 to add a requirement for recordation of a deed restriction prohibiting the use of any dwelling for transient habitation as follows:

69.05.3.4 Short-term Lodging Prohibited. Neither the ADU nor the primary residence shall be rented for periods of 30 days or less. **Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the prohibition on the use of any dwelling for transient habitation.**

Suggested Modification 8 (Delete Total Floor Area Exception) – Delete IP section 313-69.05.4.3.1 in its entirety (and any references to this section elsewhere), which would remove the allowance for permitting with a Special Permit an ADU that exceeds 1,200 square feet in size.

II. Changes to the Findings

- **Page 26:** Add findings to Section IV-B page 26 (IP Consistency, Protection of Agricultural Lands and Timberlands), before the last sentence on the page, explaining Suggested Modifications 7 and 8:

...The section as currently certified expressly excludes certain “permitted uses” on agricultural lands and timberlands that are not considered the principal permitted use, including the Single Family Residential use. As submitted, the IP amendment will amend the use type definitions for the “Agricultural Exclusive Principally Permitted Use” and the timber-related principally permitted uses to add Accessory Dwelling Unit to the list of uses that are part of what constitutes each principally permitted use. Suggested Modification 1 is needed to clarify that in addition to single family residences as permitted (not conditional) uses on agricultural lands and timberlands, ADUs also are allowed without a conditional use permit but for purposes of appeal to the Commission are not considered the principal permitted use.

Furthermore, although the County’s ordinance as submitted includes a prohibition on the use of either the primary dwelling or the ADU for short-term lodging (proposed IP section 69.05.3.4), the provision does not go far enough to ensure that future owners are aware of the restrictions. Without putting future property owners on notice of the restrictions on the use of the dwellings, the expectation that such uses may be available could drive up land costs and over time discourage maintenance of agricultural/timber operations. Therefore, **Suggested Modification 7** would require a deed restriction, approved by the County, to be recorded with the County Recorder’s office prior to issuance of a building permit for an ADU or JADU. The deed restriction must specify the prohibition on the use of either dwelling for transient habitation so that future property owners are aware of the use limitations and the long-term productivity of agricultural lands and timberlands is protected.

Finally, although proposed IP section 69.05.4.3.1 limits the total floor area of a detached ADU to 1,200 square feet, the provision includes an exception from this floor area size limit. With a Special Permit, an ADU could be constructed that would exceed the 1,200 square foot total floor area limit, with no maximum size limit specified. This could result in the potential permitting of exceedingly large structures on resource lands, which could lead to inconsistencies with LUP directives to protect agricultural lands and timberlands and their long-term productivity. Conflicts could arise via large non-agricultural/non-timber-production-related structures reducing infrastructure and services that would otherwise be available for agricultural/timber production activities; encouraging uses that cumulatively erode rural and resource production uses in the long-term; and driving up land costs that ultimately discourage maintenance of agricultural/timber operations. Therefore, the Commission suggests **Suggested Modification 8** to remove the total floor area exceedance allowance.

As modified, the proposed IP amendment can be found consistent with the amended LUPs with respect to agricultural/timber requirements and protections.