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Prepared January 26, 2023 for the February 10, 2023 Hearing

TO: Coastal Commissioners and Interested Persons

FROM: Shana Gray, Deputy Director
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**SUBJECT: County of Humboldt LCP Amendment LCP-1-HUM-21-0067-3
(Accessory Dwelling Units)**

I. SUMMARY OF STAFF RECOMMENDATION

The County's existing certified LCP includes standards for the creation of a subordinate residential unit or the conversion of existing living space into independent living space on lots in rural areas and residential neighborhoods. The County's existing provisions for second residential units do not reflect current state law regarding Accessory Dwelling Units (ADUs). LCP Amendment Application No. LCP-1-HUM-21-0067-3 would amend Chapters 2 and 3 of the Humboldt County Zoning Regulations by rescinding existing CZR sec. 313-87.1 (Second Residential Unit) and replacing it with new sec. 313-69.05 to set forth streamlined standards for creation or conversion of at least one ADU per lot zoned to allow residential use. In contrast to the currently certified regulations, which restrict second residential units to only the Residential Single-Family and Rural Residential zones, under the proposed regulations, ADUs could also be permitted in the Residential Multi-Family, Mixed Residential, Agricultural Exclusive, Commercial Timber, and Timberland Production Zones. As submitted, Junior ADUs (JADUs) as defined in Government Code section 65852.22, that conform to requirements of that section would be exempt from the requirement for a CDP in most cases. Proposed section 313-69.05 also includes provisions to allow a Tiny House, Moveable Tiny House, or Manufactured Home as an ADU.

In addition to the proposed IP changes, the proposed LCP amendment includes amendments to each of the County's six certified Land Use Plans (LUPs). Each LUP currently specifies principal and conditional uses allowed in each of the urban and rural land use designations. Various land use designations would be amended to add ADUs as a principal use. Changes also are proposed to each LUP's agricultural and timberland policies to specify that an ADU is a compatible use on these resource lands. Because the detailed standards that regulate ADUs would be located in the IP, the review and consideration of the LUP changes is broad and relates to the

appropriateness of adding housing units to these various areas, perhaps most consequentially in rural areas on agricultural lands and commercial timberlands.

The existing LUPs currently allow for up to two single family residences on agricultural lands and on timberlands, provided that the residences are incidental to the primary use of the property for farming or timber production. As submitted the proposed LUP amendments would allow the second residence in either case to be an ADU. On agricultural lands, the existing certified LCP requires that residences on farmlands must be occupied by the farm owner or operator, and any permitted second residence may only be occupied by the parent or child of the farm owner/operator. The LUP amendments as proposed allow for one of the residences (either the primary or the accessory) to be occupied by residents other than the farm owner or operator. However, ADUs are prohibited from being located on prime agricultural soils. On commercial timberlands, the existing certified LUP allows for an area of timberland of 5% up to a maximum of 2 acres to be converted from timber production to a residential use (for both allowed residences). As submitted, the proposed policy addition to each of the LUPs expressly clarifies that the total area allowed to be converted for the primary residence, ADU, driveways, utilities, and fire safety setbacks must not exceed two acres per parcel, or 50% of total acreage, whichever is smaller. The added policy language also requires that any authorized ADU on timberlands shall not result in conversion of timberlands to units of noncommercial size. Staff believes that allowing for ADUs on agricultural lands and timberlands as proposed, when reviewed against the entire LCP, including the proposed ADU IP provisions as suggested to be modified in this report, can be found consistent with sections 30241, 30242, and 30243 of the Coastal Act.

In terms of the proposed IP provisions, while there are several provisions included to ensure the protection of prime agricultural lands and limitations on the conversion of commercial timberlands that are in units of commercial size to other uses as required by the LUPs, further guidance is needed regarding the location of a detached ADU on agricultural lands and timberlands to ensure the IP adequately carries out the LUP directives regarding the long-term protection of agricultural lands and timberlands. Staff therefore recommends **Suggested Modification 1** to require new, detached ADUs to be clustered with other existing structures to reduce impacts to ESHA or other coastal resources from fuel modification, noise, lighting, and other disturbances.

To carry out LUP policy directives regarding coastal hazards and service limitations, the IP amendment as proposed includes provisions to require that lots located in certain areas that are presumed to have certain water and sewer service limitations, adverse impacts on traffic flow, and/or public safety conditions, including, but not limited to, areas of active or historic landslides, areas of potential liquefaction, areas close to a bluff or cliff edge, and lots in flood and tsunami hazard areas, be reviewed through the County's Special Permit process. Although in practice defining an ADU Special Permit Area can help to ensure that ADUs in such areas are found consistent with all applicable LCP standards, the amendment lacks specificity regarding required findings for approval, it requires a public hearing for such approvals, it does not address JADUs in hazardous areas, and it does not consider increased flood risk from sea-level rise.

After discussion and coordination with the County, it was agreed that with **Suggested Modification 2**, in addition to requiring a Special Permit for ADUs and JADUs located on lots in flood and tsunami risk areas, the flood hazard area subject to Special Permit requirements would be expanded to include ADUs and JADUs in areas subject to future sea level rise within a 75-year design life horizon. It was also agreed that standards would be added to clarify that an ADU or JADU located on a lot in a Special Permit Area may only be allowed if certain findings can be made, including, but not limited to, that hazard risks can be adequately mitigated (e.g., such as through hazard disclosure requirements, also suggested to be added with Suggested Modification 2).

Finally, to address several procedural inconsistencies between the County's ADU ordinance and the state's ADU laws, Commission staff worked closely with the County's staff to develop **Suggested Modifications 3, 4, and 5**. These modifications clarify when no CDP is required (exempting only JADUs that are contained entirely within the existing habitable area of the existing single-family unit and that does not involve removal or replacement of major structural components), they add standards for JADUs directly into the IP, and they correct hearing procedures to ensure the IP adequately carries out the certified LUPs and is consistent with state ADU/JADU law, which complements and furthers the Coastal Act policy to encourage affordable housing in the coastal zone [section 30604(f)].

Only with the incorporation of Suggested Modifications 1-5 (see [Appendix A](#) for all) can the IP amendment be found consistent with the stated goals and policies of the certified LUPs. Therefore, staff recommends that the Commission, after a public hearing:

1. Certify the Land Use Plan portion of LCP Amendment No. LCP-1-HUM-21-0067-3 as submitted;
2. Reject the Implementation Plan portion of LCP Amendment No. LCP-1-HUM-21-0067-3 as submitted;
3. Certify the Implementation Plan 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.

Staff Note: LCP Amendment Action Deadline

The County of Humboldt transmitted LCP Amendment Application No. LCP-1-HUM-21-0067-3 to the Commission on September 28, 2021. The LCP amendment submittal was filed as complete by the North Coast District Office on October 12, 2021. On December 16, 2021, the Commission granted a one-year extension to the 90-day time limit for Commission action on the proposed LCP amendment to February 18, 2023.

Additional Information

For further information, please contact Melissa Kraemer at the Commission's North Coast District Office in Arcata at Melissa.Kraemer@coastal.ca.gov. Please mail correspondence to the Commission at the letterhead address. Please also send a copy of all correspondence or other documents electronically to Northcoast@coastal.ca.gov.

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APPENDICES

[Appendix A](#) – Suggested Modifications to the Implementation Plan

[Appendix B](#) – Amendments to the Six Land Use Plans as Adopted by the County

EXHIBITS

[Exhibit 1](#) – Map of LUP Planning Areas

[Exhibit 2](#) – Resolution of LUP Amendment Adoption & LCP Amendment Transmittal

[Exhibit 3](#) – Ordinance of Adoption of IP Amendment

II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motions to introduce the resolutions and the staff recommendations are provided prior to each resolution.

A. Approval of the Amendments to the LUPs as Submitted

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

Motion 1: I move that the Commission certify Land Use Plan Amendment No. LCP-1-HUM-21-0067-3 as submitted by the County of Humboldt.

Resolution 1: The Commission hereby certifies the Land Use Plan Amendment No. LCP-1-HUM-21-0067-3 as submitted by the County of Humboldt and adopts the findings set forth below on grounds that the land use plan as amended meets the requirements of and is in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment will meet the requirements of 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 amendment 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.

B. Denial of the Amendments to the IP as Submitted

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the implementation program amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion 2: I move that the Commission reject Implementation Program Amendment No. LCP-1-HUM-21-0067-3 as submitted by the County of Humboldt.

Resolution 2: The Commission hereby denies certification of Implementation Program Amendment No. LCP-1-HUM-21-0067-3 as submitted by the County of Humboldt on grounds that the implementation program 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 program 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 program amendment as submitted.

C. Certification of the IP Amendments with Suggested Modifications

Staff recommends a **YES** vote. Passage of this motion will result in certification of the implementation program amendment with suggested modifications 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 3: I move that the Commission certify Implementation Program Amendment No. LCP-1-HUM-21-0067-3 for the County of Humboldt if modified in accordance with the suggested changes set forth in the staff report.

Resolution 3: The Commission hereby certifies the Implementation Program Amendment No. LCP-1-HUM-21-0067-3 for the County of Humboldt if modified as suggested on grounds that the implementation program, as amended, conforms with and is adequate to carry out the provisions of the certified land use plan. Certification of the implementation program amendment will comply 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 program amendment 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.

III. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed Implementation Plan amendment, which are necessary to ensure that the IP conforms with and is adequate to carry out the policies of the six LUPs. If the County of Humboldt accepts the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the modified amendment will become effective upon the Executive Director's determination that the County's action is legally adequate and has reported that determination to the Commission at a Commission meeting.

Where applicable, the text shown below in single underline format denotes text of the certified LCP that the County proposes to add. Text in ~~**bold double strikethrough**~~ format denotes text to be deleted through the Commission's suggested modifications and text in **bold double underline** format denotes text to be added through the Commission's suggested modifications. See [Appendix A](#) for all suggested modifications.

Suggested Modification 1 (Agricultural Lands and Timberlands) - Modify IP sections 313-69.05.4.2 (Building Site), 313- 69.05.4.12 (Agricultural Lands), and 313-69.05.4.13 (Timberlands) as follows to require that all new detached accessory dwelling units on agricultural lands and timberlands shall be clustered with other existing

structures to the maximum extent feasible, and also modify section 313-163.1.9 as shown below to clarify that ADUs are not considered the principal permitted use on Agricultural Lands or Timberlands for purposes of appeal to the Coastal Commission pursuant to IP section 312-13.12.3 and section 30603(a)(4) of the Coastal Act:

69.05.4.2 Building Site.

The accessory dwelling unit shall be on the same lot as the proposed or existing primary residence. Accessory dwelling units must meet local building code requirements that apply to detached dwellings, as appropriate. In areas zoned TPZ, TC, or AE, the curtilage area for residences, ADUs, associated residential structures, driveways, and utilities shall not exceed two acres per parcel, or 50% of total acreage, whichever is smaller. Residences, ADUs, associated residential structures, driveways, and utilities shall be sited so as to avoid prime soils to minimize impacts to agriculturally related activities. ADUs are prohibited on prime soils on agricultural lands. Accessory dwelling units on timber lands shall not result in conversion to units of noncommercial size. **All new detached accessory dwelling units on agricultural lands and timberlands shall be clustered with other existing structures to the maximum extent feasible.**

...

69.05.4.12 Agricultural Lands.

All development associated with accessory dwelling units shall be prohibited on prime agricultural soils and where there are no prime soils, be sited so as to minimize impacts to the use of land for agriculturally related activities. **All new detached accessory dwelling units shall be clustered with other existing structures to the maximum extent feasible.**

69.05.4.13 Timberlands.

All development associated with accessory dwelling units shall be sited so as to minimize impacts to timber related activities. **All new detached accessory dwelling units shall be clustered with other existing structures to the maximum extent feasible.**

...

313-163 LISTING OF USE TYPE AND PRINCIPAL PERMITTED USE CLASSIFICATIONS

163.1 All uses are classified into the following use types and principal permitted uses. Use types are described and defined in Section D, Part 2: Glossary of Use Types.

...

163.1.9 Principal Permitted Uses. These are uses that are allowed without a conditional use permit and that are considered the “principal permitted use” for purposes of appeal to the Coastal Commission (with the exception of (a) Single Family Residential, Accessory Dwelling Unit, Second Agriculture or Commercial Timber Production Residence (on a lot sixty (60) acres or larger in size), or Cottage Industry uses in the Agriculture Exclusive zoning district as enumerated in Section 163.1.9.9 below, and (b) Single Family Residential, Accessory Dwelling Unit, or Cottage Industry uses in the Timber Production zoning district as enumerated in Section 163.1.9.11 below). Subdivisions, including lot line adjustments, are not considered a principal permitted use in any zoning district in the coastal zone.

...

163.1.9.9 Agricultural Exclusive

The Agricultural Exclusive Principally Permitted Use includes the following uses: Single Family Residential (on lots sixty (60) acres or larger in size, two single detached dwellings, or one single detached and one accessory dwelling are permitted), General Agriculture, Timber Production, Cottage Industry; subject to the Cottage Industry Regulations, and Minor Utilities to serve these uses. Single Family Residential, Accessory Dwelling Unit, Second Agriculture or Commercial Timber Production Residence (on a lot sixty (60) acres or larger in size), and Cottage Industry use types do not require a conditional use permit, but are not considered the principal permitted use for purposes of appeal to the Coastal Commission pursuant to Section 312-13.12.3 of the Coastal Zoning Ordinance and Section 30603(a)(4) of the Coastal Act.

163.1.9.10 Commercial Timber

The Commercial Timber Principally Permitted Use includes the following uses: Single Family Residential, Accessory Dwelling Unit, General Agriculture, Timber Production, Cottage Industry; subject to the Cottage Industry Regulations, and Minor Utilities to serve these uses.

163.1.9.11 Timber Production

The Timber Production Principally Permitted Use includes the following uses: Single Family Residential, Accessory Dwelling Unit, Timber Production, Cottage Industry; subject to the Cottage Industry Regulations, and Minor Utilities to serve these uses. Single Family Residential, Accessory Dwelling Unit, and Cottage Industry use types do not require a conditional use permit, but are not considered the principal permitted use for purposes of appeal to the Coastal Commission pursuant to Section 312-13.12.3 of the coastal Zoning Ordinance and Section 30603(a)(4) of the Coastal Act.

Suggested Modification 2 (Hazards and Coastal Resource Protection) - Modify IP section 313-69.05.6 (ADU Special Permit Area) as follows to ensure ADUs and JADUs in flood hazard areas consider sea level rise over the life of the structure and to add disclosure requirements for development in hazardous areas, to integrate subsection (b) of 313-69.05.7 (Coastal Resource Protection) into added subsection (g) of 69.05.6 to simplify the discretionary permit provisions, and delete (and subsequently renumber 69.05.8 and .9 accordingly) section 313-69.05.7, thereby eliminating the need for a discretionary CDP for lands within the Commission's geographic appeal jurisdiction:

69.05.6 ADU Special Permit Area.

69.05.6.1. Locations with Potential Safety or Coastal Resource Impacts

Lots located in the ADU Special Permit Area are presumed to have certain water and sewer service limitations, adverse impacts on traffic flow, ~~and/or~~ public safety conditions, **and/or potentially raise coastal resource issues** that may preclude construction of an ADU **or JADU or which may require certain mitigation measures**. An ADU **or JADU** may be prohibited or may require a Special Permit **(or associated discretionary Coastal Development Permit)** if **any of** these conditions are present:

- (a) Areas outside a Fire Protection District;
- (b) Airport incompatibility. A Special Permit may not be issued if the ADU exceeds the density limit in an airport zone;
- (c) Areas of active or historic landslides; areas of potential liquefaction; or areas along a bluff or cliff where the proposed ADU is within the "area of demonstration of stability" as defined in the relevant Local Coastal Program.
- (d) Flood and tsunami hazards, **including areas subject to future sea level rise (SLR) with a 75-year design life horizon as determined by the Planning Director based on the best available science consistent with the California Coastal Commission's adopted 2018 SLR Policy Guidance (and any subsequent updates)**;
- (e) Proximity within 1000 feet of a toxic cleanup site as designated by California Department of Toxic Substances.
- (f) **Areas outside of water and sewer service areas where there is a necessity to expand service or construct water wells or septic systems to serve the ADU or JADU.**
- (g) **Parcels within Special Combining Zones that protect coastal**

resources, as mapped on the County's GIS, including A: Archaeological Resource Area and Special Archaeological Resource Area for Shelter Cove; B: Beach and Dune Areas; C: Coastal Resource Dependent; D: Design Review; E: Coastal Elk Habitat; R: Streams and Riparian Corridors; T: Transitional Agricultural Lands; and W: Coastal Wetland Areas Combining Zones.

69.05.6.2. Required Findings for Permits

- (a) On a parcel within a mapped ADU Special Permit Area due to one or more of the conditions ~~above in Section 69.05.6.1~~, an ADU or JADU may be allowed with a Special Permit/~~CDP only~~ if (1) evidence shows that the health and safety conditions for which it was included do not apply to that site or can be ~~adequately successfully reduced or~~ mitigated, and (2) the ADU or JADU can be developed ~~is~~ consistent with all other applicable provisions of the Local Coastal Plan.**
- (b) When an ADU or JADU does not meet the criteria of sections 69.05.4.3.1 or 69.05.4.6, an ADU or JADU may be allowed with a Special Permit only if (1) the ADU or JADU is consistent with all other applicable provisions of this chapter, and (2) the ADU or JADU can be developed consistent with all other applicable provisions of the Local Coastal Plan.**

69.05.6.3. Hazard Disclosure Requirements

Where an ADU or JADU would be located in an area listed in Section 69.05.6.1(c) or in an area of future sea level rise (with a 75-year horizon) as determined by the Planning Director pursuant to Section 69.05.6.1(d), the record owner of the ADU or JADU shall be required to acknowledge and agree, and property owners, except public agencies, must also record a deed restriction against the property on which the ADU is located to acknowledge and agree: (1) that the ADU or JADU is located in a hazardous area, or an area that may become hazardous in the future; (2) to assume the risks of injury and damage from such hazards in connection with the permitted development; (3) that they have no rights under Coastal Act Section 30235 and related LCP policies to shoreline armoring in the future; (4) that sea level rise and related coastal hazards could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; and (5) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to other applicable provisions of the Local Coastal Plan. The record owner of the ADU or JADU shall also provide notice to all occupants of the ADU or JADU of these specified acknowledgements.

~~69.05.7 Coastal Resource Protection~~

~~In order to protect coastal resources, parcels with the following characteristics may require a discretionary Coastal Development Permit.~~

- ~~(a) Lands within Coastal Commission appeals jurisdictions, as mapped on the County's GIS;~~
- ~~(b) Parcels within Special Combining Zones that protect coastal resources, as mapped on the County's GIS, including A: Archaeological Resource Area and Special Archaeological Resource Area for Shelter Cove; B: Beach and Dune Areas; C: Coastal Resource Dependent; D: Design Review; E: Coastal Elk Habitat; R: Streams and Riparian Corridors; T: Transitional Agricultural Lands; and W: Coastal Wetland Areas Combining Zones;~~
- ~~(c) ADUs are not permitted on parcels within Coastal Natural Resources areas as mapped on the County's GIS.~~

...

Suggested Modification 3 (Exemptions) - Modify IP sections 313-69.05.2 and 313-136 as follows to (among other changes related to public hearings and discretionary approval requirements) clarify that ADUs and JADUs that are located within the existing primary structure and do not alter the size of the residence, convert non-habitable area, or involve major structural alterations or the placement or erection of any solid material on land may not qualify as development that requires a CDP, while other ADUs and JADUs would be required to obtain a CDP:

69.05.2 Accessory Dwelling Units Generally Permitted.

In general, ADUs and JADUs are permitted without a public hearing in any zone that allows single family or multifamily dwelling residential use and includes a proposed or existing dwelling, if the general provisions in 69.05.3 are met, and the ADU and/or JADU meets the Development Regulations and Standards of section 69.05.4, and the Exceptions in 69.05.2.2 do not apply. As specified in the Principal Zones in Sections 313-2.1 through 313-7.3, ADUs are allowed in the RS, RM, R2, RA, AE, TC, and TPZ zones with a Coastal Development Permit (CDP) as set forth below.

69.05.2.1 Coastal Development Permit Requirements For ADUs and JADUs

Coastal Development Permits (CDPs) may be are required for ADUs and JADUs as follows if the ADU/JADU meets the definition of "development" under the California Public Resources Code (Section 30106) and is not excluded from CDP requirements under the California Public Resources Code (Section 30000, and following) or the California Code of Regulations.

- (a) In some cases, an ADU or JADU may require a Special Permit if located within the areas identified in section 69.05.6, or when the ADU or JADU does not meet the criteria of subsections 69.05.4.3.1 or 69.05.4.6.

~~(ab) ADUs Exempt from CDP Requirements.~~

~~i. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADU's) as defined in Govt. Code sections 65852.22 313-136 to -145 that convert habitable space in a primary residence do not require conform to requirements of that section are exempt from the requirement for a CDP unless the conversion involves alteration to the size of the residence, removal or replacement of major structural components, or the placement or erection of any solid material or structure on land, or unless specified otherwise in a previously issued CDP requires a CDP or CDP amendment for any existing development on the lot.~~

~~ii. ADUs that meet the requirements of the Categorical Exclusion Order E-86-4 may be excluded from CDP requirements as accessory structures if they are located: (i) within the Order's defined geographic area, (ii) not within a Coastal Commission appeals jurisdiction, (iii) not within an archaeological resource area, (iv) not within 200 foot of a coastal stream or wetland; and the ADU does not require a Special Permit or Variance.~~

~~(bc) ADUs and JADUs Allowed Without a Public Hearing.~~

- a. ~~An ADU's or JADU that requires are allowed with a CDP that does not involve require a public hearing if they are located outside the geographic area of the Categorical Exclusion Order E-86-4, outside the Coastal Commission appeals jurisdiction, and outside archaeological resource areas, and do not require a Special Permit or Variance. Notice must be given in accordance with Section 312-8 of this code, and final notice of the decision must be provided as described in Section 312-6.7.~~

~~(c) ADUs Allowed With a Public Hearing.~~

- b. ~~ADU's that do not meet the above criteria in paragraphs (a) or (b) require a CDP with a public hearing in accordance with Section 312-9. Notice must be given in accordance with Section 312-8 of this code, and final notice of the decision must be provided as described in Section 312-6.7.~~

69.05.2.2 Exceptions.

ADUs and JADUs may be prohibited or may require a Special Permit in addition to a Coastal Development Permit in certain designated areas as described in section 69.05.6, based on adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. Outside the ADU Special Permit Area, an ADU that cannot meet all the criteria in subsection 69.05.4.3.1 or 69.05.4.6 may still be permitted with a Special Permit subject to meeting the requirements in

~~69.05.06 under certain circumstances.~~ If an earlier CDP issued for an existing structure indicates that future improvements would require a development permit, a CDP with public hearing is required.

69.05.2.3 Expedited Application Review.

The county shall act on the building permit application for an accessory dwelling unit, and any associated CDP, within 60 days from the date the completed application is received if there is an existing single-family or multifamily dwelling on the lot. **If the permit application to create an ADU or a JADU requires a Special Permit or discretionary CDP pursuant to Section 69.05.6.1, action on the Special Permit and associated Coastal Development Permit may exceed the 60-day time period.**

...

313-136 DEFINITIONS (A)

...

Accessory Dwelling Unit: An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons, that includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot where a single family or multifamily dwelling is or will be situated. ~~An accessory dwelling unit is an accessory building for purposes of Categorical Exclusion Order E-86-4, Section I(a).~~ An accessory dwelling unit also includes a manufactured home, as defined in Section 18007 of the Health and Safety Code; and a Tiny House or Moveable Tiny House as defined in this code. (See, Residential Use Types, Accessory Dwelling Unit, in Section D: Use Types; Tiny House, Section 155 Definitions (T); and Moveable Tiny House, Section 148 Definitions (M)).

Suggested Modification 4 (Provisions for JADUs) - Modify IP sections 313-69.05.1, .2, .3, and .4 to add where appropriate or clarify provisions for junior accessory dwelling units required by the Government Code directly into IP provisions and to add a definition for JADU to section 313-145 as shown in [Appendix A](#).

Suggested Modification 5 (Requirements Related to Public Hearings) - Modify IP sections 312-8.2.4, 312-9.2 (including Table 9.2.4 and section 9.2.6), and 313-69.05.2 related to public hearing requirements as shown in [Appendix A](#) to correct the hearing procedures in the proposed IP amendment and elsewhere in the IP as applicable to conform with state ADU law.

IV. PROCEDURAL ISSUES

A. Standard of Review

Pursuant to Coastal Act section 30512(c), to certify a proposed amendment to a Land Use Plan (LUP) portion of an LCP, the Commission must find that the LUP as amended meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. The County has six different certified LUPs: North Coast Area Plan; Trinidad Area Plan; McKinleyville Area Plan; Humboldt Bay Area Plan; Eel River Area Plan; and South Coast Area Plan. Maps of the six LUP planning areas are included as [Exhibit 1](#). The proposed LCP amendment application includes proposed changes to each of the six LUPs as shown in [Exhibit 2](#) and [Appendix B](#).

All six LUPs are implemented by one Implementation Plan (IP), which includes, but is not limited to, Chapters 1, 2, and 3 of the Humboldt County Zoning Code (Coastal Zoning Regulations or CZR). Pursuant to Coastal Act section 30513, to certify the proposed amendment to the IP portion of the Humboldt County LCP, the Commission must find that the IP as amended would be in conformity with and adequate to carry out the policies of the six certified LUPs as amended.

B. Public Participation

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County's Planning Commission held a public hearing on the proposed amendment on May 6, 2021, and the Board of Supervisors held a public hearing on July 13, 2021.¹ The hearings were noticed to the public consistent with sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. Procedural Requirements

Pursuant to section 13544 of the Commission's regulations, if the Commission denies the LCP amendment as submitted, but then approves it with suggested modifications, the LCP amendment will not take effect until the County accepts and agrees to the Commission's suggested modifications, the Commission Executive Director determines that the County's acceptance is consistent with the Commission's action, and the Executive Director reports the determination to the Commission at the next regularly scheduled public meeting. If the County does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment is not effective

¹ In addition to these meetings several additional Planning Commission and Board of Supervisors meetings were held to discuss an earlier version of updated ADU regulations, which were transmitted separately to the Commission for certification as LCP Amendment No. LCP-1-HUM-20-0090-1. That LCP amendment application was withdrawn in September of 2021 at the time that the County submitted the subject LCP Amendment application.

within the coastal zone. If the Commission certifies the LCP amendment as submitted, no further County action will be necessary to formally adopt the amendment.

D. Deadline for Commission Action

The County of Humboldt transmitted Local Coastal Program (LCP) Amendment Application No. LCP-1-HUM-21-0067-3 to the Commission on September 28, 2021. The LCP amendment submittal was filed as complete by the North Coast District Office on October 12, 2021. On December 16, 2021, the Commission granted a one-year extension to the 90-day time limit for Commission action on the proposed LCP amendment to February 18, 2023.²

V. DESCRIPTION OF THE LCP (LUP AND IP) AMENDMENTS

The County's existing certified Local Coastal Program (LCP) includes standards for the creation of a subordinate residential unit or the conversion of existing living space into independent living space on lots in rural areas and residential neighborhoods. As currently certified, a second residential unit (1) may be permitted with a coastal development permit (CDP) in the Residential Single-Family (RS) and Rural Residential Agriculture (RA) zones, (2) the total floor area of any detached second dwelling unit, or in the case of an attached unit, the increase in floor area, shall be no more than 1,000 square feet, or 60 percent of the principal dwelling, whichever is less, and (3) must conform to certain standards related to design, access, adequacy of services, setbacks from ESHA, protection of public access, and protection of prime agricultural soils for second units on agricultural lands. The County's existing provisions for second residential units do not reflect current state law regarding Accessory Dwelling Units (ADUs).

A. Proposed Amendments to Land Use Plans

Resolution No. 21-70 amends various policies and land use designations of the County's six certified Land Use Plans (LUPs), which include the North Coast Area Plan, Trinidad Area Plan, McKinleyville Area Plan, Humboldt Bay Area Plan, Eel River Area Plan, and South Coast Area Plan ([Exhibit 1](#)). Each of the LUPs include similar policies and land use designations, and as such, the changes summarized below apply to each. In sum, the changes to each of the LUPs include the following:

Changes to Land Use Permitted Allowances

Each LUP currently specifies principal and conditional uses allowed in each of the urban and rural land use designations. Various land use designations would be amended to add ADUs or JADUs as principal or conditional uses, as described further below.

² Link to time extension action: <https://documents.coastal.ca.gov/reports/2021/12/Th8c/Th8c-12-2021-report.pdf>.

Changes to Agricultural Resources Compatible Use Policies

Each LUP currently allows for up to two farmhouses on agricultural lands, with the primary dwelling occupied by the farm owner or operator and the second dwelling restricted to parents or children of the farm owner/operator. As proposed, language would be added specifying that an ADU may be substituted for the second unit, but any such ADU must be incidental to the primary use of the property for agricultural purposes and must not be sited on prime agricultural soil. As proposed, there would be no occupancy restriction for the ADU (i.e., the ADU need not be occupied by the parents or children of the farm owner/ operator). However, the occupancy restriction for one of the residences on agricultural lands (either the primary or the ADU) would remain.

Changes to Timberland Resources Compatible Use Policies

Each LUP currently allows for two single-family residences on timberlands, with the second dwelling unit requiring a use permit conditioned “so as to not constitute a subdivision of the parcel. Minor conversion of timberland for residential use is limited to an area of 5% of the total parcel, to a maximum area of two acres for a homesite and appurtenant uses. The total area need not be a contiguous unit.” As proposed, language would be added to specify that one of the allowed single-family dwelling units on timberland may be an ADU and “ADUs, associated residential structures, driveways, utilities, and fire safety setbacks shall not exceed two acres per parcel, or 50% of total acreage, whichever is smaller. Accessory dwelling units on timber lands shall not result in conversion to units of noncommercial size...”

B. Proposed Amendments to the Implementation Plan

Ordinance No. 2679 ([Exhibit 3](#)) would amend Chapters 2 and 3 of the Humboldt County Zoning Regulations (CZR) by rescinding existing CZR sec. 313-87.1 (Second Residential Unit) and replacing it with new sec. 313-69.05 to set forth streamlined standards for creation or conversion of at least one ADU per lot zoned to allow residential use. In contrast to the currently certified regulations, which restrict second residential units to only the RS and RA zones, under the proposed regulations, ADUs could also be permitted in the Residential Multi-Family (RM), Mixed Residential (R2), Agricultural Exclusive (AE), Commercial Timber (TC), and Timberland Production Zones (TPZ). Junior Accessory Dwelling Units (JADUs) as defined in Government Code section 65852.22, that conform to requirements of that section would be exempt from the requirement for a CDP unless specified otherwise in a previously issued CDP for existing development on the lot. In the Commercial Recreation (CR) zone, JADUs would be added to the list of conditionally allowed uses. Proposed sec. 313-69.05 also includes provisions to allow a Tiny House, Moveable Tiny House, or Manufactured Home as an ADU.

Under the proposed regulations, the total floor area of an ADU shall not exceed 1,200 square feet.³ The minimum floor area shall be 150 square feet. Tiny Houses and Moveable Tiny Houses allowed as ADUs would be restricted to a maximum floor area of 400 square feet. In all cases, neither the ADU nor the primary residence may be rented as a short-term rental. The proposed regulations include various provisions related to services, parking, and coastal resource protection.

A CDP would be required for ADUs and JADUs that meet the definition of “development” under the Coastal Act (unless exempted or excluded under Coastal Act section 30610 and the California Code of Regulations), and in some cases, no hearing would be required. For lots presumed to have certain water and sewer service limitations, adverse impacts on traffic flow, and/or public safety conditions that may preclude construction of an ADU, a Special Permit would also be required. As proposed, the regulations state that a discretionary CDP may be required to protect coastal resources for ADUs in areas with certain characteristics, such as within areas of the Commission’s appeal jurisdiction and on lots within mapped combining zone areas applied for the protection of coastal resources (e.g., Archaeological Resources, Beach and Dune Areas, Streams and Riparian Corridors, Wetlands, and others). Parking exceptions for ADUs allow for the one required parking space to be provided in tandem on a driveway and in setback areas, and further exceptions to the parking requirements are allowed.

Additional proposed IP amendments include: (1) the addition of new definitions or changes to existing definitions; (2) the addition of new permit procedures for ADUs; (3) changes to the permitted use type tables for the various zones where ADUs would be allowed; (4) changes to the use types, use type definitions, and glossary of use types; and (5) changes to the Off-Street Parking standards to add parking exceptions for ADUs.

C. Modifications in Coordination with the County

Since the County originally transmitted the subject LCP amendment to the North Coast District Office in September of 2021, Commission and County staff have been collaborating closely regarding inconsistencies between the proposed amendment as adopted by the County and the provisions of state ADU and JADU law that the County suggests being addressed through modifications. These agreed upon modifications include, but are not limited to, modifications regarding (1) public hearing requirements and processing timelines for permits for ADUs and JADUs, including narrowing when a discretionary approval for an ADU will be required and clarifying the required findings that must be made; (2) ensuring that provisions that apply to ADUs also apply to JADUs where appropriate; and (3) incorporating certain JADU standards required by the

³ However, there is a discretionary process that would allow consideration of a structure larger than 1,200 square feet.

Government Code into IP provisions. These and other suggested modifications to the IP are shown in [Appendix A](#).

VI. CONSISTENCY ANALYSIS

A. LUP Consistency Analysis

Applicable Coastal Act Policies

The Coastal Act contains objectives and policies designed to protect, maintain, and enhance the quality of the coastal zone and coastal resources. This includes balancing uses and development in the coastal zone in a way that considers the social and economic needs of the state, the use of infill residential development as a means of simultaneously limiting such development in more rural areas to protect agricultural lands and scenic natural landscapes, and the need to ensure that coastal resources are protected through all LCP and CDP processes and outcomes. Relevant provisions include (but are not limited to):

Section 30222:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30241:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*

- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Section 30242:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30243:

The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

Section 30250 (in relevant part):

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Section 30251 (in relevant part):

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

While not part of Coastal Act Chapter 3, and thus not technically part of the legal standard of review for the proposed LUP changes, the Coastal Act also provides relevant direction regarding this proposed amendment, including encouraging the provision of affordable housing and ensuring environmental justice in the coastal zone.

Section 30604(f):

The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

Section 30604(g):

The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Section 30604(h):

When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

Approval of the Amendments to the LUPs As Submitted

As the Commission is aware, the State has a housing crisis, and in particular an affordable housing crisis, and these issues are only more acute in the state's coastal zone. To address this critical need, the State Legislature has enacted several 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, recent legislative sessions have 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 new changes that would affect the development of ADUs. Importantly, the changes in state law do not supersede the Coastal Act (except as it relates to local hearing requirements for ADU authorizations), and therefore LCPs must continue to ensure that coastal resource protections are incorporated into the process when considering ADUs. In short, the goal of updating LCPs related to ADUs is to harmonize 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.

It is in this context of encouraging more and more affordable housing through infill development while still protecting coastal resources that the Commission reviews this and other ADU provisions in LCPs. It should also be noted that while there is a serious lack of affordable housing throughout the State, including in Humboldt County, ADUs themselves are not likely to be enough to correct such an imbalance. However, ADUs can provide what is typically a more affordable housing option in the County than a single-family residence,⁴ and can at least provide some relief in terms of the availability of smaller housing stock. In that sense, ADUs can help implement Coastal Act housing provisions, albeit related to diversification of housing stock versus affordable housing.

As summarized above, the proposed LUP amendments include three related changes. First, the amendments include changes to uses allowed in various land use designations in each of the six LUPs to (1) add ADUs to the list of principal uses allowed in those residential use designations that currently list single family residence as the principal use; (2) add ADUs within or accessory to multifamily dwellings to the list of principal uses allowed in those residential use designations that currently list duplex, multiple unit, and mobile home residential development as the principal uses; (3) add JADUs to the list of conditional uses allowed in those commercial designations that currently list commercial recreation as the principal use; (4) add ADUs to the list of principal uses allowed in those various agricultural land use designations that currently list single family residences as allowed incidental to the principal use of the land for the production of food, fiber, or plants provided that (a) one of the residences is occupied by the farm owner or farm operator, and (b) the ADU may not be located on prime agricultural soil; and (5) add the allowance for ADUs incidental to the principal use of long-term production of merchantable timber to the commercial timberland land use designations. Second, the LUP amendments propose policy changes to the Agricultural Resources policies of each LUP to list ADUs as a type of compatible use on all types of agricultural lands (along with other compatible uses, which as currently certified include watershed management, fish and wildlife habitat management, recreational uses not requiring non-agricultural development, gas/electric/water or communication transmission facilities, and farm labor housing). Third, the LUP amendments propose policy changes to the timberland policies of each LUP to allow the second residence on timberlands that is currently conditionally allowed under the six LUPs (provided that the conversion of timberland for residential use shall be limited to an area of 5% of the total parcel) to be an ADU, provided that ADUs, associated residential structures, driveways, utilities, and fire safety setbacks shall not exceed two acres per parcel, or 50% of total acreage, whichever is smaller and provided that the ADUs shall not result in conversion to units of noncommercial size. As proposed, the detailed standards that regulate ADUs

⁴ However, new smaller housing stock, like ADUs, in less affordable areas of unincorporated Humboldt County, like many parts of the coastal zone, may be less expensive than other housing options, but they still are relatively expensive. So, while ADUs are often seen as a proxy for “affordable housing,” they must be understood in terms of the actual market in which they are located, and they do not necessarily constitute affordable housing. Rather, they may better be understood as additional housing stock that can help alleviate housing stock shortages overall, especially at the smaller unit side of the market, but, absent being required to be affordable, they will become market rate housing.

are located in the proposed IP amendments. Thus, the review and consideration of these LUP changes is broad and relates to the appropriateness of adding housing units to these various areas – both urban and rural areas – perhaps most consequentially in rural areas on agricultural lands and commercial timberlands.

With respect to ADUs on agricultural lands, the existing allowances in the County’s certified LUPs for development of a residential use on agricultural lands gives precedence to agricultural land protection by specifying that a permitted residential use must be incidental to the principal use of the property for farming. The LUPs allow for up to two single family residences incidental to the primary farming use of the property only when one is occupied by the farm owner or operator and the other by the parent or child of the farm owner/operator. In this way, the authorized dwellings enhance the productivity of the agricultural lands and are considered agricultural uses that do not represent a conversion of agricultural lands to a non-agricultural use. As submitted, the LUP amendments maintain precedence for agricultural land protection consistent with the Coastal Act first by specifying that where an accessory residence on farmland is permitted, one of the residences (either the primary or the accessory) must be occupied by the farm owner or operator. Although no occupancy restriction is required for ADUs (i.e., no specification that ADUs must be lived in by the farm owner or operator or their immediate relatives), as proposed the LUP amendments maintain the requirement that the residence be incidental to the primary use of the land for farming. As such, the productivity of on-site agricultural lands will be maintained, and the need for an analysis of consistency with the agricultural conversion criteria is not triggered. In addition, the proposed LUP amendments prohibit an ADU from being located on prime agricultural soils, thereby maximizing the amount of prime agricultural land that will be maintained in agricultural production consistent with section 30241. Thus, even if an ADU is developed some distance from (and not clustered with) the existing farmhouse structure on the property, prime soils must be protected (additionally, the IP amendment as submitted provides standards for limiting lot coverage and total floor area, as discussed below).

With respect to ADUs on commercial timberlands, the proposed policy language is consistent with the directives of section 30243 of the Coastal Act and with the existing certified LUP policies to protect the long-term productivity of soils and timberlands and prohibit the conversion of commercial timberlands to other uses or into units of noncommercial size for several reasons. First, as the minimum planned density of TC lands under the LUPs is 40 acres (though in some cases there may be smaller nonconforming lots), and the existing as certified policy cited above allows for an area of 5% up to a maximum of 2 acres (which is 5% of a 40-acre parcel) of timberland to be converted to a residential use, the proposed policy addition is consistent with this policy, in that it expressly clarifies that the total area allowed to be converted for the primary residence, ADU, driveways, utilities, and fire safety setbacks must not exceed two acres per parcel, or 50% of total acreage, whichever is smaller. Second, rather than proposing to allow both of the residences currently allowed on timberland parcels to each have an ADU, the proposed LUP amendment instead conservatively protects timberland “for long-term production of merchantable timber” (as specified in the purpose of the TC designation) by substituting the allowance of one ADU for the second residence that is

currently allowed under the existing certified LUPs (the existing second residence currently is conditionally permitted, whereas an ADU may be principally permitted as proposed). Third, the added policy language requires that any authorized ADU not result in conversion of timberlands to units of noncommercial size.

While allowing for intensified residential development in rural areas certainly raises issues in terms of conformity with the Coastal Act, including in terms of agricultural land and timberland preservation and concentrating development within existing developed areas more broadly, the proposed LUP amendments must be understood holistically, including that all ADUs must be consistent with all applicable LCP standards, including the specific ADU standards specified in the IP. As such, and as discussed in the subsequent IP analysis, allowing for ADUs in this manner (i.e., when reviewed against the entire LCP, including the proposed ADU IP provisions as suggested to be modified in this report) in all land use designations that allow for single-family residences (including agricultural lands, timberlands, and urban lands) can be found consistent with the Coastal Act.

B. IP Consistency Analysis

Protection of Agricultural Lands and Timberlands

Summary of LUP Policies

The agricultural protection policies of each of the six LUPs mirror the Coastal Act in requiring that (1) prime agricultural lands be maintained in production; (2) prime and non-prime agricultural lands on the urban periphery or surrounded by urban uses may be converted only if they satisfy certain standards stated in subsections (b) and (c) of section 30241 as well as other applicable provisions of the Coastal Act; and (3) all other lands suitable for agricultural use (i.e. rural locations without conflicts “between agricultural and urban land uses”) may only be converted if the conversion is consistent with section 30242 and other applicable provisions of the Act. In addition to Coastal Act sections 30241 and 30242, each of the LUPs include section 30243 as an enforceable LUP policy, which requires protection of the long-term productivity of soils and timberlands and limits the conversion of commercial timberlands in units of commercial size to other (non-timber production) uses.

The various LUPs include multiple land use designations for Agricultural Lands,⁵ including Agriculture Exclusive Prime (AEP, the purpose of which is “To protect prime agricultural lands for long term productive agriculture use”), Agricultural/General (AG, the purpose of which is “To protect productive non-prime agricultural lands from conversion to non-agricultural uses”), Agricultural Exclusive/Grazing Lands (AEG, the purpose of which is “To protect coastal grazing lands for long-term productive grazing

⁵ The majority of the County’s agricultural lands are in the Humboldt Bay and Eel River planning areas. Additional agricultural lands of significance are in the North Coast area and the South Coast area (especially grazing lands). There are little to no agricultural lands in the McKinleyville and Trinidad planning areas.

use”), and Agricultural Exclusive/Prime and Non-Prime Lands (AE, the purpose of which is “To protect prime and non-prime agricultural lands for long term productive agricultural use”). The listed gross density for the various agricultural use designations in the various LUPs generally is a minimum parcel size of 60 to 600 acres, though on AG lands, divisions to 20 acres may be permitted where the parcel is subject to an Agricultural Preserve contract.

The various LUPs include the Timberland Commercial (TC) land use designation, which is implemented by two different zone classifications: Commercial Timber (CT) and Timber Production Zone (TPZ). The principal use allowed in both of these zones is the same and includes Single Family Residential, General Agriculture, Timber Production, Cottage Industry; and Minor Utilities to serve these uses. The listed gross density for TC lands is a minimum parcel size of 160-acres, except that with a joint timber management plan parcels to 40 acres may be created.⁶

As previously discussed, the existing LUPs allow for single family residences to be established on agricultural lands and on timberlands. In both cases, the LUPs expressly recognize single family residences as necessarily incidental to the principal use of the land for resource production.⁷ Existing IP sections 313-7.1 to -7.3 lists the conditionally permitted uses allowable on agricultural lands (AE) and on timberlands (TPZ and TC), most of which are uses that are ancillary to or supportive of resource production and therefore clearly consistent with the above-cited policies that require the maximum amount of agricultural lands to remain in agricultural production and the protection of the long-term productivity of soils and timberlands. Certain other conditionally permitted uses specified in the IP, such as Oil and Gas Drilling and Processing, Aquaculture, Resource-Related Recreation, and Coastal Access Facilities, are not ancillary to or supportive of agricultural/timber production but otherwise are aligned with other overriding Coastal Act requirements that also apply to agricultural and timber lands.⁸ Consistent with Coastal Act sections 30222, 30241, 30242, and 30243 (all of which are enforceable policies of each of the LUPs), the LCP gives precedence to agricultural land and timberland protection over these other Coastal Act priority uses on agricultural and timber lands by specifying that conditionally permitted uses may only be authorized (1) on agricultural lands provided that the conditional uses “*will not impair the continued agricultural use on the subject property or on adjacent lands or the economic viability of agricultural operations on the site*” (IP sec. 312-18.1.1) or (2) on timberlands provided

⁶ The majority of the County’s coastal timberlands are in the North Coast area, with a few scattered timberlands in the Trinidad and South Coast areas.

⁷ Although the County’s certified LCP classifies single family residences as a principally permitted use, certified IP section 313-163.1.9 expressly excludes residences from being defined as the principal permitted use for purpose of appealability under section 30603(a)(4) of the Coastal Act.

⁸ The provision allowing oil and gas development is derived from Coastal Act section 30260, which expressly overrides the coastal resource protection policies of the Coastal Act in specified circumstances to allow oil and gas development and other coastal-dependent industrial development in the coastal zone, even when inconsistent with other Coastal Act policies. Similarly, coastal access, recreation, and aquaculture are all priority uses under the Coastal Act.

that the proposed use “*will not significantly detract from, or inhibit the growing and harvesting of timber on the site or on adjacent properties*” (IP sec. 312-21.1.1).

Adequacy of IP Amendments to Carry out LUPs As Amended

As submitted, the LUP amendments will add language to the agricultural resources policies of each LUP specifying that an ADU may be substituted for the second dwelling unit that otherwise is allowed on agricultural lands, but any such ADU must be incidental to the primary use of the property for agricultural purposes and must not be sited on prime agricultural soil. Although there will be no occupancy restriction for the ADU (i.e., the ADU need not be occupied by the parents or children of the farm owner/operator), the occupancy restriction for primary farm residences on agricultural lands will remain. The proposed IP standards that implement the proposed LUP policies as amended include several provisions to ensure the protection of prime agricultural lands, the long-term productivity of agricultural lands, soils, and timberlands, and to limit the conversion of commercial timberlands that are in units of commercial size to other uses as required by the LUPs including the following:

- Protecting Soils and Agricultural Lands by Requiring Adequate Services: Outside Urban Service Areas, sanitation facilities, plumbing, and water supply for the ADU, including any septic or waterless toilet systems used, shall comply with all applicable County Health Department requirements for sewage disposal and water supply (proposed IP sec. 69.05.3.6)
- Protections for Prime Agricultural Soils and Agricultural-Related Activities: Residences, ADUs, associated residential structures, driveways, and utilities shall be sited so as to avoid prime soils to minimize impacts to agriculturally related activities (proposed IP sec. 69.05.4.2). All development associated with ADUs shall be prohibited on prime ag soils, and where there are no prime soils, be sited so as to minimize impacts to the use of land for agriculturally related activities (proposed IP sec. 69.05.4.12)
- Protecting Agricultural Lands Through Lot Coverage Limits: In areas zoned TPZ, TC, or AE, the curtilage area for residences, ADUs, associated residential structures, driveways, and utilities shall not exceed two acres per parcel, or 50% of total acreage, whichever is smaller. (69.05.4.2)
- Preventing Conversion of Commercial Timberlands to Units of Noncommercial Size: ADUs on timberlands shall not result in conversion to units of noncommercial size (69.05.4.2), and all development associated with accessory dwelling units shall be sited so as to minimize impacts to timber related activities. (69.05.4.13).

While these provisions will protect prime soils and minimize conflicts between resource production uses and residential uses allowed on these lands as required by the LUPs, further guidance is needed regarding the location of a detached ADU on agricultural lands and timberlands to ensure the IP adequately carries out the LUP directives regarding the long-term protection of agricultural lands and timberlands. Without such

guidance, an ADU could be sited a considerable distance on these generally large parcels from the existing principal dwelling or other structures, which could result in separate impacts from the residential use of the site as well as separate impacts as a result of the fuel modification requirements for each development envelope. Section 30250 of the Coastal Act, as incorporated into the certified LUPs, requires development to be within, contiguous with, or in close proximity to existing developed areas in order to avoid such impacts.

Therefore, **Suggested Modification 1** requires new, detached ADUs be clustered with other existing structures to the maximum extent feasible to reduce impacts to ESHA or other coastal resources from fuel modification, noise, lighting, and other disturbances that result from human presence and use of a site.

In addition, Suggested Modification 1 modifies IP section 313-163.1.9 to clarify that ADUs are not considered the principal permitted use on Agricultural Lands or on Timberlands for purposes of appeal to the Commission pursuant to IP section 312-13.12.3 (Appeals to the Coastal Commission) and section 30603(a)(4) of the Coastal Act. This section of the IP and of the Coastal Act provides that action taken by the County on a CDP may be appealed to the Coastal Commission for “Any development approved that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500) of the Coastal Act” (emphasis added). Unless a single use is designated as the principally permitted use in a particular zoning district, all development approved by the County in that particular zoning district is appealable to the Commission. This creates an unnecessary problem easily rectified by identifying one use as principally permitted in each zoning district. Existing certified IP section 313-163.1.9 identifies the uses that are allowed without a conditional use permit (in all zoning districts) and that are considered the “principal permitted use” for purposes of appeal to the Commission. 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.⁹ 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.

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

⁹ In the Agricultural Exclusive zoning district, the principal permitted use is General Agriculture. In the Timber Production zoning district, the principal permitted use is Timber Production.

Hazards

Summary of LUP Policies

Each of the six LUPs include Coastal Act sections 30253(a) and (b) as enforceable policies, which require that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and that new development assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, such as through the construction of a protective device to stabilize eroding bluffs, cliffs, or low-lying areas of the property subject to flooding. The LUPs also include section 30250 as an enforceable policy, which in part requires that new development be located in areas where it will not have significant adverse effects on coastal resources, and hard shoreline armoring often conflicts with this and the public access, habitat protection, and visual resource protection standards of the LUPs. Thus, shoreline protective devices, even in areas without bluffs and cliffs, generally are inconsistent with the Coastal Act due to their effects on natural shoreline processes and impacts on visual resources, public access, and other coastal resources.

The LUPs also each include policies related to bluff stability, seismic safety, tsunami safety, and directives to avoid locating critical facilities in floodplains. There is an additional tsunami policy in the Humboldt Bay Area Plan that applies to development projects that could result in one or more additional dwelling units within a potential tsunami run-up area that requires submission of a tsunami vulnerability report, which provides a site-specific prediction of tsunami run-up elevation resultant from a local Cascadia subduction zone major earthquake. The policy prohibits new residential development with habitable living space below the predicted tsunami run-up elevation calculated at maximum tide plus a minimum of three feet to account for future sea level rise, plus one foot of freeboard space.

Finally, two of the LUPs – Humboldt Bay Area and South Coast Area – include Coastal Act section 30235 as an enforceable policy. This section allows for shoreline protection in limited circumstances – i.e., (1) when it is required to serve coastal dependent uses or to protect existing structures in danger of erosion; (2) there is no other, less damaging feasible method to protect the use or structure; (3) it is designed to eliminate or mitigate adverse impacts on local shoreline sand supply; and (4) all other impacts of the protective device are avoided to the extent feasible, or if avoidance is infeasible, mitigated.

Adequacy of IP Amendments to Carry out LUPs As Amended

To carry out LUP policy directives regarding hazards, the IP amendment as proposed includes provisions to require that the ADU, among other provisions, meet local building code requirements that apply to detached dwellings (IP section 69.05.4.2, Building Site). These include measures to minimize risks associated with construction in areas subject to geologic, flood, and fire hazards. In addition, the IP amendment as submitted includes provisions to require that lots located in certain areas that are presumed to have certain water and sewer service limitations, adverse impacts on traffic flow, and/or

public safety conditions, including areas outside a Fire Protection District, areas of active or historic landslides, areas of potential liquefaction, areas close to a bluff or cliff edge (within the “area of demonstration of stability” as defined in each of the LUPs),¹⁰ and lots in flood and tsunami hazard areas, be reviewed through the County’s Special Permit process. The County’s existing IP includes permit provisions that define a Special Permit as a type of discretionary approval that may be acted on by either the Planning Director or the Planning Commission and for which a public hearing may be waived. In this “ADU Special Permit Area,” an ADU may be prohibited under certain (unspecified) circumstances.

Although in practice, defining an ADU Special Permit Area as proposed could help ensure that ADUs in such areas can be found consistent with all applicable standards of the LCP (in addition to the ministerial standards proposed in the ADU chapter), the IP amendment as submitted lacks specificity regarding the required findings for approval of an ADU in a Special Permit area and also requires a public hearing for such approvals, which is contrary to State ADU law. In addition, the IP amendment as submitted does not address JADUs in hazardous areas, areas outside of water and sewer service areas where there is a necessity to expand service or construct water wells or septic systems to serve the ADU or JADU, nor does it consider increased flooding from sea-level rise (SLR) over the life of the ADU development.

With SLR, shoreline development will experience increasingly hazardous conditions, including worsening storm flooding, inundation, and shoreline and bluff erosion. On a relatively flat shoreline, even small amounts of SLR can cause large losses of beach width. For example, for a shoreline with a slope of 40:1, every foot of SLR could result in a 40-foot landward movement of the ocean/beach interface resulting in significant loss of beach habitat and recreational space as well as representing a change in the location of public tidelands subject to the public trust doctrine. This change could also expose previously protected backshore development to increased tidal/wave action and flooding, and those areas that are already exposed to such conditions will be exposed more frequently and with greater severity. SLR will also cause coastal groundwater tables to rise in some locations, potentially emerging from the ground to cause flooding, as well as impacts such as damage to development and infrastructure, saltwater intrusion into aquifers, and changing liquefaction risks. Importantly, rising groundwater and decreased drainage capacity for stormwater could constrain the types of adaptation strategies that can be protective; for example, while shoreline armoring may be effective

¹⁰ As defined in each LUP, this area “includes the base, face and tops of all bluffs and cliffs. The extent of the bluff top considered should include the area between the face of the bluff and a line described on the bluff top by the intersection of a plane included at a 20° angle from horizontal passing through the toe of the bluff or cliff, or fifty feet inland from the edge of the cliff or bluff whichever is greater. However, the County may designate a lesser area of demonstration in specific areas of known geologic stability (as determined by adequate geologic evaluation and historic evidence) or where adequate protective works already exist. The County may designate a greater area of demonstration or exclude development entirely in areas of known high instability.”

to address overland flooding and inundation from SLR, it may not protect against groundwater rise and drainage impacts, depending on the characteristics of the site.

These changing hazard conditions may also alter the impacts of development upon coastal resources. In particular, coastal resources such as beaches and wetlands could disappear if they are squeezed between rising sea levels and a fixed line of development on the shoreline. Such losses will impact public access, recreation, public views, and other coastal resources – all of which are protected under the certified LUPs. Further, loss of these public resources could have significant implications from an environmental justice standpoint, since coastal open spaces and habitats are an opportunity for all to visit and enjoy the California coast and would disproportionately burden those who cannot afford to live near the coast.

Humboldt County is undergoing the fastest rates of SLR in the state due to the region's active tectonic subsidence affecting portions of the regional landscape, particularly in the Humboldt Bay and Eel River areas. The State SLR Guidance provides SLR projections for 12 tide gauges in the state and recommends using the projections for the gauge closest to the project site. In this case, the North Spit tide gauge at Humboldt Bay is the applicable gauge. The amount of SLR projected at the North Spit tide gauge for the year 2100 ranges from 4.1 feet (under the "low-risk aversion" scenario) to 7.6 feet (under the "medium-high risk aversion" scenario) to 10.9 feet (under the "extreme risk aversion" scenario).

As submitted, the proposed amendment will allow ADUs and JADUs projected to be impacted by sea level rise within their expected lifetimes to be developed without measures to minimize risk to life and property as required by the LUPs, such as providing notification to property owners of the risk or ensuring that shoreline protection will not be constructed to protect the homes. Thus, the proposed IP amendment as submitted cannot be found consistent with the hazard policies of the certified LUPs.

After discussion and coordination with the County, it was agreed that with **Suggested Modification 2**, in addition to requiring a Special Permit for ADUs and JADUs¹¹ located on lots in flood and tsunami risk areas (among other areas described in proposed IP section 69.05.6 presumed to have certain water and sewer service limitations, adverse impacts on traffic flow, and/or public safety conditions), the flood hazard area subject to Special Permit requirements would be expanded to include ADUs and JADUs in areas projected to be subject to future SLR within their 75-year design life horizon, as determined by the Planning Director based on the best available science consistent with the Commission's adopted 2018 SLR Policy Guidance (and any subsequent updates). Vulnerability Assessments (VAs) have been completed for Humboldt County in the

¹¹ Except for dwelling units involving the conversion of an existing, legally established habitable space to a ADU or JADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure. Such wholly internal units do not pose much risk of adverse impacts and constitute a minority of accessory unit design, as the size and configuration of many properties in the coastal zone require that some alteration or conversion of existing structures to accommodate a new attached ADU.

Humboldt Bay area (the area with the highest density potential for future ADU development and one of the most vulnerable parts of the County), which include maps of vulnerable areas consistent with current, best-available-science SLR projections, and there are other available mapping tools to assist in the vulnerability determinations for portions of the County where VAs have not yet been completed.¹²

In discussions with the County it also was agreed that with **Suggested Modification 2** standards would be added to clarify that an ADU or JADU located on a lot in a Special Permit Area may only be allowed with a Special Permit if the required findings of existing IP section 312-17.1 can be made, including, but not limited to: (1) evidence shows that the health and safety conditions for which it was included do not apply to that site or can be adequately mitigated (e.g., such as through hazard disclosure requirements, as discussed below), and (2) the ADU or JADU can be developed consistent with all other applicable provisions of the LCP (e.g., the tsunami hazard policy included in the Humboldt Bay Area Plan (section 3.17-B-3) mentioned above limiting new residential development in tsunami runup areas with habitable living space below the predicted tsunami run-up elevation calculated at maximum tide plus a minimum of three feet to account for future SLR, plus one foot of freeboard space).

Furthermore, where an ADU or JADU would be located in an area listed in an area of potential instability identified in section 69.05.6(c) or in an area of future sea level rise (with a 75-year horizon) as determined by the Planning Director as specified in section 69.05.6(d), **Suggested Modification 2** also would require the record owner of the ADU or JADU to acknowledge and agree to the following: (1) that the ADU or JADU is located in a hazardous area, or an area that may become hazardous in the future; (2) to assume the risks of injury and damage from such hazards in connection with the permitted development; (3) that they have no rights under Coastal Act section 30235 and related LCP policies to shoreline armoring in the future; (4) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; and (5) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to other applicable provisions of the Local Coastal Plan. The record owner of the ADU or JADU shall also provide notice to all occupants of the ADU or JADU of these specified acknowledgements.

Finally, the suggested modification narrows the circumstances for when a discretionary approval for an ADU and JADU will be required and clarifies the required findings that must be made for discretionary approvals. As currently proposed, a discretionary

¹² For example, the National Oceanic and Atmospheric Administration (NOAA) [Sea Level Rise Viewer](#) projects coastal flooding and inundation for different amounts of sea level rise on the United States coast, including for Humboldt County. The [Our Coast, Our Future Coastal Storm Modeling System \(CoSMoS\) Hazard Map](#) currently includes projections of groundwater table depths with different amounts of sea level rise for Humboldt County and is scheduled to be comprehensively updated with data for the North Coast in the near future.

approval would be required for development of an ADU on lands within the Commission's appeal jurisdiction, which is unnecessarily broad and counter to facilitating more ADUs and affordable housing units in the coastal zone, as there may be lots in appealable areas that do not have water and sewer service limitations, adverse impacts on traffic flow, and/or public safety conditions and which therefore should follow a more streamlined permit process, provided the applicable standards of the ordinance and LCP consistency can be met. Thus, **Suggested Modification 2** deletes the requirement for obtaining a discretionary approval for development of an ADU on lands within the Commission's appeal jurisdiction and moves the requirement for obtaining a discretionary approval for parcels within special combining zones that protect coastal resources (as mapped on the County's GIS) from section 69.05.7 to the ADU Special Permit Area provisions of section 69.05.6. This modification also adds the discretionary approval requirement to lots in areas outside of water and sewer service areas where there is a necessity to expand service or construct water wells or septic systems to serve the ADU or JADU. This will ensure that adequate services are provided for ADUs and JADUs in a manner that will not have significant adverse effects on coastal resources inconsistent with Coastal Act section 30250 (which, as cited above, is policy of each of the LUPs).

As suggested to be modified, the proposed amendment minimizes risk to life and property in areas of high geologic, flood, and fire hazard consistent with the hazard management policies of the certified LUPs.

Procedural Requirements

Summary of LCP Policies

As defined by the Coastal Act (section 30106) and the definition section of each of the LUPs, "development" refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" Many ADUs and JADUs may constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU or JADU, or conversion of an existing, uninhabitable attached or detached space to an ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the "placement or erection of solid material," and the conversion of existing uninhabitable space would generally constitute a "change in the density or intensity of use." Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code section 30600.)

Each of the LUPs, as well as existing IP section 312-3.1.4, require securing a CDP for any development (defined in existing IP section 313-139 consistent with the definition of development in Coastal Act section 30106) in the County's unincorporated coastal zone, unless the development is exempted or excluded under the Coastal Act or the California Code of Regulations. Coastal Act sections 30610(a) and (d) provide that (respectively) improvements to existing single family residences (SFRs) and repair and maintenance activities that do not add to or enlarge or expand the object of the repair and maintenance are exempt from CDP requirements unless the development risks

adverse environmental effects. In addition, pursuant to Coastal Act section 30610(e), the Commission approved the County's proposed Categorical Exclusion Order E-86-4 in 1986, which, as described in Chapter 2 of each LUP, exempts from CDP requirements various categories of development in specific geographic areas. One of the categories of excluded development covered under the exclusion order is "single family dwellings," including "the construction, reconstruction, demolition, repair, maintenance, alteration, or addition to any single family dwelling or accessory building on a legally created lot, and after review and approval of the required geologic reports in hazardous areas as required by the County's LCP..." However, this categorical exclusion does not specify ADUs or JADUs, and according to the County, it has not been interpreted in the past as covering such second dwellings. Thus, as currently certified, development of an ADU or JADU currently requires the issuance of a CDP.

Adequacy of IP Amendments to Carry out LUPs As Amended

As submitted, proposed IP section 69.05.2.1 states that a CDP may be required for ADUs, but it exempts certain ADUs and JADUs from CDP requirements beyond what is allowed for under IP section 312-3.1.4 (i.e., beyond what is allowed for under Coastal Act sections 30610(a) and (d) and existing Categorical Exclusion Order E-86-4). Namely, JADUs would be exempt from CDP requirements in almost all cases (except if specified in a previously issued CDP for existing development on the lot), and ADUs would be allowed in specific geographic areas pursuant to Categorical Exclusion Order E-86-4, which allows for construction of single family dwellings without a CDP in three out of the six LUP planning areas (portions of Myrtle town, McKinleyville, Manila, Pine Hill, Humboldt Hill, Fields Landing, Loleta, and Shelter Cove).

The Commission finds that these overly broad exemptions do not carry out the intent of section 30610 of the Coastal Act or the exemptions listed in chapter 2 of each LUP, which is to only exempt improvements to an existing SFR, rather than the creation of new residential units. The purpose of Commission regulation section 13250 (Cal. Code of Regs., tit. 14) is to describe certain classes of development that involve a risk of adverse environmental effects and therefore require a permit. Accordingly, the LUP policies implementing section 30610(a) and regulation section 13250 should be interpreted in a protective manner and in a way that is most consistent with section 30610(a) of the Coastal Act, which only exempts improvements to existing SFRs, rather than the creation of new residences, even if they happen to be attached to an existing SFR. For these reasons, the Commission finds that the creation of a self-contained living unit in the form of an ADU is not an "improvement" to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property. The Commission therefore rejects the proposed LCPA's creation of CDP exemptions for most JADUs.

Commission staff circulated a memorandum to local governments in 2022¹³ encouraging them to update LCPs to ensure that new ADUs are not constructed in locations where they would require the construction of shoreline protective devices, be in ESHA or wetlands, or be located where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over its lifetime. As discussed above, suggested modifications to the County's streamlined ADU and JADU provisions have been designed to ensure that development avoids impacts to all coastal resources; however, these modifications on permit process require that such development be reviewed for compliance with these standards. This permit application review can be streamlined, but the review must still occur to ensure compliance with the certified LUPs, and the CDP is the appropriate process for this review, along with the noticing requirements and potential appeals process of a CDP. To ensure that the review involves specifically determining the consistency of the ADU/JADU with the resource protection policies of the LUPs, a CDP should be required as part of the review process (even if streamlined) for ADUs and JADUs except in very narrow circumstances, as discussed below. However, CDPs for ADUs should be streamlined as much as possible to harmonize the state ADU laws with the Coastal Act.

Unlike new construction, the conversion of an existing, legally established habitable space to a ADU or JADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.) may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development is the conversion of an existing living quarter within a primary structure. Thus, in order to streamline the approval of the above described ADUs and JADUs that have the least likelihood to create adverse impacts to coastal resources while ensuring continued coastal permitting review of the remaining majority of ADU and JADU types, **Suggested Modification 3** clarifies that ADUs and JADUs that are located within the existing primary structure and do not alter the size of the residence, convert non-habitable area, or involve major structural alterations or the placement or erection of any solid material on land may not qualify as development that requires a CDP, while other ADUs and JADUs would be required to obtain a CDP. Such wholly internal units do not pose much risk of adverse impacts and constitute a minority of accessory unit design, as the size and configuration of many properties in the coastal zone require that some alteration or conversion of existing structures to accommodate a new attached ADU.

Because the proposed IP amendment as submitted exempts all JADUs from CDP requirements in most cases, the IP amendment as submitted lacks necessary standards for JADUs in many respects. For example, rather than specifying criteria for JADUs in the ordinance itself, it simply references Government Code section 65852.22 items (a)(1) through (6), and it says that (in general) JADUs are permitted as ADUs. But the provisions in the ordinance that apply to ADUs do not also apply to JADUs, and in many cases they appropriately should apply to both (e.g., provisions to protect coastal resources in proposed section 69.05.4.9 to 69.05.4.11 regarding protection of public

¹³ Available from the Commission's website: <https://documents.coastal.ca.gov/assets/rflg/ADU-Memo.pdf>.

access, visual resources, and ESHA). Thus, Commission staff and County staff have been collaborating on modifications related to JADU provisions. **Suggested Modification 4** adds where appropriate provisions that apply to ADUs to also apply to JADUs and incorporating certain JADU standards required by the Government Code directly into IP provisions.

In addition to (a) clarifying when ADUs and JADUs may not require a CDP, and (b) adding provisions for JADUs to protect coastal resources consistent with the Coastal Act and LUPs as described above, Commission staff and County staff have also been collaborating on additional modifications related to public hearing requirements and processing timelines for ADUs and JADUs. Government Code Section 65852.2 requires CDP approvals for ADUs to be processed without a public hearing. However, the proposed IP amendment as submitted includes confusing and, in some cases, conflicting provisions for ADU permits. For example, the County proposes changes to IP section 312-9 to specify that no public hearing is required for CDPs for ADUs only if they do not involve a Special Permit, Conditional Use Permit, or Variance and are not otherwise appealable to the Coastal Commission. However, Government Code section 65852.2 states that there is no requirement for local governments to hold a public hearing for ADUs, and this requirement is regardless of whether the CDP is appealable to the Commission. In addition, the IP amendment as submitted does not make changes to existing IP section 312-8.2, which lists the contents of the Notice of Application Submittal that is required for development permits that will be decided administratively. As currently certified, such notices must include, among other information, a statement instructing individuals who wish to request a public hearing for the application on how to do so, which conflicts with Government Code section 65852.2. Therefore, **Suggested Modification 5** corrects the hearing procedures in the proposed IP amendment and elsewhere in the IP as applicable to conform with state ADU law. These modifications related to exemptions, hearing procedures, JADU provisions, and the permit approval process are consistent with and adequate to carry out the certified LUPs and will help ensure consistency with state ADU/JADU law, which complements and furthers the Coastal Act policy to encourage affordable housing [section 30604(f)].

For all of the reasons stated above, the Commission finds that the IP amendment, only as suggested to be modified, conforms with and is adequate to carry out the coastal resource protection policies of the County's six certified LUPs as amended.

VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, 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 a LCP. Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP amendment, 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 that would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§13542(a), 13540(f), and 13555(b)].

The County's LCP amendment consists of both LUP and IP amendments. The Commission incorporates its findings on Coastal Act and LUP conformity into this CEQA finding as if set forth in full herein. As discussed throughout the staff report and hereby incorporated by reference, the LUP amendment as originally submitted does not meet the requirements of or conform with the Chapter 3 policies of the Coastal Act, and the IP amendment does not conform with and is not adequate to carry out the policies of the certified LUP. The Commission, therefore, has suggested modifications to bring the LUP and IP amendments into full conformance with the Coastal Act and LUP, respectively. These modifications represent the Commission's detailed analysis and consideration of all public comments received, including with regard to potential direct and cumulative impacts of the proposed LCP amendment, as well as potential alternatives to the proposed amendment, including the no project alternative.

As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of CEQA. Further, future individual projects on the subject parcel would require CDPs. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development projects are assessed through the coastal development review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures which would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§ 13542(a), 13540(f), and 13555(b)].