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Prepared March 24, 2023 for April 14, 2023 Hearing

To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
Nolan Clark, Coastal Planner

**Subject: De Minimis Amendment Determination for Proposed Santa Cruz County
Local Coastal Program Amendment Number LCP-3-SCO-23-0003-1-Part A
(Tiny Homes on Wheels)**

Proposed LCP Amendment

Santa Cruz County proposes to amend the Implementation Plan (IP) component of its Local Coastal Program (LCP) to establish regulations for tiny homes on wheels¹ (THOW) via adding IP Section 13.10.680 (Tiny Homes on Wheels) and corresponding updates to other related IP provisions that seek to define THOWs and allow them in the coastal zone pursuant to the standards governing ADUs or single-family residences. Specifically, the proposed amendments would allow a THOW to be built and used as either a single-family dwelling (SFD) or an accessory dwelling unit (ADU)² on parcels/zoning districts where SFDs/ADUs are already principally permitted or allowed uses. As proposed, an applicant may elect to construct a THOW pursuant to the regulations governing SFDs (and thus the THOW would serve as the primary residence) or as an ADU (and thus the THOW would serve as an ADU). In any case, THOWs are subject to all provisions which govern SFDs or ADUs (which are already components of the County's certified LCP), where applicable, and includes additional provisions

¹ Defined in the proposed IP amendment as "an independent dwelling unit, maximum 400 gross square feet, excluding loft area space if that loft area space meets the requirements of Government Code Section 18009.3(b) and Section 18033 and maximum 14 feet in width at the maximum horizontal projection. It provides complete independent living facilities for one or more persons and is built upon a single chassis and is towable by a hitch mechanism and cannot move under its own power. It may only be transported upon the public highway with permit issued pursuant to Vehicle Code Section 35780."

² Proposed IP Section 13.10.680(C)(1) states that, "A THOW may function as a single-family dwelling as the primary unit or in place of an accessory dwelling unit (ADU) such that the total number of dwelling units on a parcel does not exceed the total number of dwelling units allowed on that parcel per provisions of state and local regulations. Only one THOW shall be allowed per parcel."

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specific to THOWs³. Notably, THOWs must be located on a designated, paved parking pad which provides all connections to utilities (such as sewer, water, and electricity) in accordance with the requirements for the subject parcel. The proposed amendment does not increase or otherwise change the number of allowed units on a parcel, and a maximum of one THOW will be allowed per parcel whether it is counted as a SFD or an ADU.

In general, the County finds that THOWs are relatively affordable alternatives to new construction ADUs and will support greater flexibility in how property owners contribute to much needed housing supply. In a similar vein, the County views this proposed amendment as an opportunity to support property owners' efforts to rebuild after the 2020 CZU Lightning Complex fires, which destroyed over 900 homes,⁴ by allowing a THOW to function as an ADU while the primary residence is being replaced. Because a THOW is conveyable (i.e., can be sold independently and is not tied to any property) and can be bought pre-built, they are deemed easier to install onto a property than a new construction ADU and may simplify/expedite rebuilding efforts.

In sum, the proposed amendment establishes regulations for the use of tiny homes on wheels as another housing option in Santa Cruz County in place of either a single-family dwelling unit or an accessory dwelling unit, subject to all the provisions which regulate the same. See **Exhibit 1** for the proposed LCP amendment text.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis" if the amendment meets the following three criteria:

1. The proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and it is consistent with Coastal Act Chapter 3.
2. The proposed amendment does not propose any change in use of land or water or allowable use of property.
3. The proposed amendment was properly noticed by the local government at least 21 days prior to submittal⁵ to the Commission (i.e., by posting notice on-site and off-site

³ The key difference between a THOW and other dwelling units is that, as the name suggests, they are on wheels and are to remain on wheels. Towable tiny homes with the wheels removed and subsequently placed on foundations are, under the IP, no different than manufactured homes and are already regulated by the provisions in IP Section 13.10.682.

⁴ According to a Santa Cruz County Board of Supervisors report from June 24, 2021 titled "The CZU Lightning Complex Fire—Learn...or Burn?"

⁵ An LCP amendment is deemed to have been "submitted" when it has been determined that it includes all of the necessary supporting documentation and information required by the Coastal Act and the Commission's implementing regulations, and is "filed" by Commission staff as complete.

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in the affected area, publishing notice in the local newspaper, and/or mailing notice to owners and occupants of affected and contiguous properties).

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the Executive Director's de minimis LCP amendment determination at that time, then the amendment is set for a future public hearing as a regular LCP amendment. If not, then the amendment is deemed approved and it becomes a certified part of the LCP ten days after the date it is reported to the Commission (in this case, it would be certified on April 24, 2023).

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

De Minimis LCP Amendment Analysis

Each of the de minimis criteria is discussed briefly below:

1. No impact to coastal resources and consistency with Coastal Act Chapter 3

The proposed IP amendment requires that tiny homes on wheels (THOW) be subject to all provisions of the LCP Implementation Plan (IP) that regulate single-family dwellings (SFD) or accessory dwelling units (ADU), depending on whether an applicant proposes the THOW to serve as the primary dwelling or the ADU. As such, the THOW would need to meet all applicable SFD or ADU provisions as currently specified in the LCP. Because the amendment makes clear that only one THOW is allowed per parcel, the amendment does not add any density or the number of allowed units, but rather gives more flexibility as to the residential composition of the particular site. For coastal resource protection purposes, just as a proposed project to build an SFD or an ADU must be found consistent with the County's certified LCP, so, too, must a project to install a THOW, including conformance with LCP provisions addressing setbacks from coastal hazards and riparian corridors, proper wastewater treatment, and ESHA/agricultural lands protection. Therefore, the proposed amendment will not adversely affect coastal resources and is consistent with Coastal Act Chapter 3, thus meeting the first de minimis LCP amendment criterion.

2. No change in use of land or allowable use of property

Under the proposed amendment, tiny homes on wheels can only be used in lieu of single-family dwellings or accessory dwelling units on parcels where such structures are principally permitted or an allowed use. Thus, the proposed amendment does not change any LCP-allowed uses of land or LCP-allowed uses of property, and it meets the second de minimis LCP amendment criterion.

3. Provision of public notice

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The County provided public notice, via newspaper notice⁶ and mail/email notice⁷ in advance of both the Planning Commission hearing (held on August 10, 2022) and the Board of Supervisors' hearing (held on September 20, 2022), and the Board approved the amendment on December 6, 2022. In addition, as part of both hearing processes, the proposed amendment text was made available to the Planning Commission's mailing list and the Board of Supervisors' agenda packet distribution list prior to its consideration in a hearing, and the text was also available for public inspection at the County Community Development and Infrastructure Department and on the County's website in advance of the hearings. The proposed amendment was subsequently received by the Commission on January 30, 2023, and filed as complete on March 17, 2023, roughly two months after it was last noticed locally. Therefore, the 21-day noticing requirement has been satisfied, and the proposed amendment meets the third and final de minimis LCP amendment criterion.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the County exempted the proposed amendment from environmental review under both statutory and categorical exemptions, citing the following CEQA Sections: §15282(h), "the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code"; §15303, "new construction or conversion of small structures"; and §15061(b)(3), "the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, and has

⁶ The proposed amendment was noticed via a newspaper notice on July 28, 2022, prior to the Planning Commission hearing, and on September 10, 2022, prior to the Board of Supervisors' hearing.

⁷ Hard copy notices were mailed and email notices were sent to all interested parties who voluntarily signed-up to receive updates on the County hearing process regarding this LCP amendment.

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concluded that approval of the proposed amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA. Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its April 14, 2023 hybrid meeting. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Nolan Clark at the Coastal Commission's Central Coast District Office by email at nolan.clark@coastal.ca.gov. If you wish to comment on the proposed amendment and/or object to the proposed de minimis LCP amendment determination, please do so via regular mail (directed to the Central Coast District Office) or email (by emailing centralcoast@coastal.ca.gov) by 5:00 p.m. on April 7, 2023.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on March 17, 2023. The proposed amendment affects the LCP's IP only, and the 60-working-day deadline for the Commission to take action on it is June 13, 2023. Thus, unless the Commission extends the action deadline (it may be extended by up to one year by the Commission per the Coastal Act), the Commission has until June 13, 2023 to take a final action on this LCP amendment.

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

Motion: I move that the Commission extend the time limit to act on Santa Cruz County Local Coastal Program Amendment Number LCP-3-SCO-23-0003-1-Part A to June 13, 2024, and I recommend a yes vote.

Exhibits

Exhibit 1: Proposed LCP Amendment Text