

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV



# F13b

**Prepared March 24, 2023 for April 14, 2023 Hearing**

**To:** Commissioners and Interested Persons

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

**Subject: De Minimis Amendment Determination for Proposed City of Santa Cruz  
Local Coastal Program Amendment Number LCP-3-STC-23-0005-1-Part A  
(Flexible Density Units)**

## **Proposed LCP Amendment**

The City of Santa Cruz is proposing to amend portions of the Implementation Plan (IP) component of its Local Coastal Program (LCP) to update provisions related to small housing types, specifically addressing single room occupancy units (SROs), small ownership units (SOUs), and flexible density units (FDUs). The IP currently identifies two types of small housing units: SROs<sup>1</sup> and SOUs<sup>2</sup>. Historically, the City has seen consistent production of SRO housing development projects, and thus the amendment proposes some changes to SRO standards based on lessons learned so as to continue to improve upon their implementation as a more 'affordable by design' housing type<sup>3</sup>. In contrast, SOU housing development projects have rarely been proposed, indicating a disconnect between current regulations and the real estate housing market. Therefore, in hopes of facilitating more small housing opportunities, the proposed amendment seeks to modify SOU regulations.

For example, and in addition to renaming the use as FDUs, the proposed changes allow for more flexibility in ownership/rental status. Whereas the existing IP requires SOUs to be at least 50% owner-occupied, the proposed amendment removes such restriction and instead allows FDUs to either be rented or owned without any caps or limits. The

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<sup>1</sup> SROs are a nationally recognized unit-type and generally have private sleeping areas with shared facilities like kitchens and bathrooms.

<sup>2</sup> SOUs are a City of Santa Cruz-specific unit-type and are identified as a "dwelling unit" (i.e., containing a full kitchen) with no more than one bedroom and between 400 and 650 square feet in size. As proposed, FDUs would be the same as SOUs, except that such units may be as small as 220 square feet but still no more than 650 square feet. Above this size, the units are considered to be traditional residential units.

<sup>3</sup> Specifically, the amendment makes clear that SROs need to comply with the site development standards specified in the underlying zoning district (e.g., in terms of height, setbacks, lot coverage, etc.) and that such units cannot be subdivided or individually sold so as to maintain their rental status.

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amendment also proposes to lower the minimum unit size (from 400 square feet to 220 square feet) and remove the requirement specifying SOUs may only contain one bedroom (while maintaining the maximum unit size), thereby allowing for a mix of studio, one-bedroom, and two-bedroom FDUs. Finally, the proposed amendment allows FDUs to mix with other unit types (whereas SOUs were prohibited from doing so and were only allowed in all-SOU developments), thereby promoting mixed-unit developments that cater to multiple households and income levels.

See **Exhibit 1** for the text of the proposed amendment showing proposed changes in ~~strikethrough~~/underline.

### **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 submittal<sup>4</sup> to the Commission (i.e., by posting notice on-site and off-site 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**

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<sup>4</sup> 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.

## **LCP-3-STC-23-0005-1-Part A (Flexible Density Units)**

As described above, the proposed amendments seek to incentivize development of small units within the City by modifying certain standards that the City finds currently hinder their development. The changes allow for more flexibility with small housing developments, including in terms of size, ownership, and residential mix, including to help foster mixed-income and mixed-unit size residential projects, while still maintaining existing site development standards, such as for density and parking.<sup>5</sup>

Most importantly, in terms of coastal resources, none of the proposed changes relate to core coastal resource issues governed by the LCP (e.g., related to environmentally sensitive habitats and their buffers, coastal bluffs and their buffers, public coastal access, and public views), and thus all such development must still be found in conformance with all of these standards. As such, the amendments specifically cover regulations related to small housing development and are not intended to modify core coastal resource issues or provisions.

In sum, the amendment should help to foster various types of small housing units all aimed at providing more affordable housing within the City and in a manner that respects and protects coastal resources. Thus, the proposed amendment will not adversely affect coastal resources; it is consistent with Coastal Act Chapter 3; and it meets the first de minimis LCP amendment criterion.

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

The proposed amendment would add FDUs as an allowed use within four zoning districts: Community Commercial (C-C); Central Business District – Downtown Area Plan (CBD); Central Business District, Subdistrict E (CBD-E); and Tourist Residential, Subdistrict C (R-T(C)). However, per the City’s LCP, residential uses and, more specifically, SROs are already allowed within these zones and thus the amendment is simply being more specific about the types of permissible residential uses allowed within these areas. 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**

The City provided public notice, via newspaper notice<sup>6</sup> and mail/email notice<sup>7</sup> in advance of both the Planning Commission hearing (held on February 3, 2022) and the City Council hearing (held on March 8, 2022, and March 22, 2022), and the City Council approved the amendment on March 22, 2022. In addition, as part of both hearing

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<sup>5</sup> In the case of density, as with the existing SOU (and SRO regulations), FDUs would not be subject to specific numeric LCP density requirements, but instead is reliant on the zoning district’s site development standards including height, setbacks, and parking (1 space per unit), as well as all other provisions of the LCP to govern how many units the site can appropriately accommodate.

<sup>6</sup> The proposed amendment was noticed via a newspaper notice on October 21, 2021 and December 16, 2021, prior to Planning Commission hearing, and on March 8, 2022, prior to the City Council hearing.

<sup>7</sup> Hard copy notices were mailed and email notices were sent to all property owners located within 300 feet of exterior property lines for affected areas.

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processes, the proposed amendment text was made available to the Planning Commission's mailing list and the City Council agenda packet distribution list prior to its consideration in a hearing, and the text was also available for public inspection at the City's Planning Department and on the City's website in advance of the hearings. The proposed amendment was subsequently received by the Commission on February 17, 2023, and filed as complete on March 3, 2023, roughly one year 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 City exempted the proposed amendment from environmental review, stating that the proposed amendment falls within the analyzed development potential in the City's existing 2030 General Plan EIR.

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 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 virtual 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 Kiana Ford at the Coastal Commission's Central Coast District Office by email at [kiana.ford@coastal.ca.gov](mailto:kiana.ford@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](mailto:centralcoast@coastal.ca.gov)) by 5:00 p.m. on April 7, 2023.

## **LCP-3-STC-23-0005-1-Part A (Flexible Density Units)**

### **Procedural Note - LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on March 3, 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 May 30, 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 May 30, 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 City of Santa Cruz Local Coastal Program Amendment Number LCP-3-STC-23-0005-1-Part A to May 30, 2024, and I recommend a yes vote.*

### **Exhibits**

Exhibit 1: Proposed Amendment Text