



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482
120 WEST FIR STREET • FT. BRAGG • CALIFORNIA • 95437

IGNACIO "NASH" GONZALEZ, AICP INTERIM DIRECTOR
JULIA KROG, ASSISTANT DIRECTOR
TELEPHONE: 707-234-6650
FAX: 707-463-5709
FB PHONE: 707-964-5379
FB FAX: 707-961-2427
pbs@mendocinocounty.org
www.mendocinocounty.org/pbs

MEMORANDUM

DATE: NOVEMBER 9, 2021

TO: HONORABLE BOARD OF SUPERVISORS

FROM: PLANNING & BUILDING SERVICES & NORTH COAST COMMUNITY PLANNING

SUBJECT: ADOPTION OF LOCAL COASTAL PROGRAM AMENDMENT TO ESTABLISH REGULATIONS FOR ACCESSORY DWELLING UNITS IN THE COASTAL ZONE OF MENDOCINO COUNTY (GP_2018-0003 & OA_2018-0009)

On November 5, 2019, the Board of Supervisors adopted Resolution No. 19-378 authorizing submittal of a Local Coastal Program ("LCP") Amendment to the California Coastal Commission ("Commission"). The LCP Amendment consists of an amendment to the Coastal Element of the Mendocino County General Plan (GP_2018-0003) and an amendment of the Mendocino County Coastal Zoning Code (Title 20 – Division II of the Mendocino County Code)(OA_2018-0009) to establish regulations for Accessory Dwelling Units ("ADU") in the Coastal Zone of Mendocino County.

The LCP Amendment application was submitted to the Coastal Commission on March 16, 2020 (LCP-1-MEN-20-0021-1). Commission staff accepted the application for filing and requested supplemental analysis and documentation to address concerns about protection of agricultural and timber resources, traffic capacity on State Route 1, adequacy of water and sewer services, protection of environmentally sensitive habitat areas, consistency with recent amendments to State ADU laws, and the Commission's environmental review obligations. Included in the County's submittals were a number of "friendly modifications" to the LCP Amendment that were requested by County staff to provide clarification, correct inconsistencies, and address new ADU laws that took effect after the Board's action on the LCP Amendment application.

Commission staff deemed the LCP Amendment application complete on November 17, 2020. On February 12, 2021, the Coastal Commission granted itself a one-year extension to the 90-day time limit for Coastal Commission action on the proposed LCP Amendment.

On June 9, 2021, the Board of Supervisors received a status update and provided direction to staff regarding "suggested modifications" to the LCP Amendment that were proposed by Coastal Commission staff. Commission staff subsequently agreed to the one revision requested by the Board, an increase to the maximum allowable setback between an ADU and a primary residence on lands with AG and RL zoning. The maximum setback was increased from 50 feet (original Coastal Commission staff recommendation) to 100 feet (a compromise position sought by the County).

On September 9, 2021, the Coastal Commission took action to certify the LCP Amendment with "suggested modifications" as shown in Attachment 1 and Attachment 2, including the "friendly modifications" requested by County Staff and both the prohibition on short-term rental use on properties with an ADU and clustering of ADUs on lands with resource zoning designations (AG, RL, FL, TPZ) at a maximum of 100 feet from the primary residence:

Attachment 1 shows sections of the currently certified Coastal Element of the Mendocino

County General Plan in plain text with additions and deletions proposed in the County's LCP Amendment shown in underlined text and ~~strike-out text~~. The Coastal Commission's "suggested modifications" are shown in red, bold, double-underlined text and ~~double-strike-out text~~. The proposed amendments to the Local Coastal Program Land Use Plan (GP_2018-0003) consists of modifications to three policies in Chapters 3.2, 3.3, and 3.9 of the Coastal Element of the Mendocino County General Plan.

Attachment 2 shows sections of the currently certified Mendocino County Coastal Zoning Code (Title 20-Division II of the Mendocino County Code) in plain text with additions and deletions proposed in the County's LCP Amendment shown in underlined text and ~~strike-out text~~. The Coastal Commission's "suggested modifications" are shown in red, bold, double-underlined text and ~~double-strike-out text~~. The proposed amendments to the Local Coastal Program Implementation Program (OA_2018-0009) remove the prohibition on ADUs and establish regulations for development of ADUs and Junior ADUs ("JADUs") in the coastal zone. OA_2018-0009 amends Mendocino County Code, Title 20, Division II, Chapters 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, and 20.544.

On October 7, 2021, the Planning Commission conducted a public hearing on the LCP Amendment for ADUs and adopted Resolution No. PC_2021-0012 (Attachment 3) providing a formal written recommendation to the Board of Supervisors supporting adoption of GP_2018-0003 and OA_2018-0009. The Planning Commission suggested two minor revisions to OA_2018-0009 as follows:

- Modify Section 20.458.025(A) to read: "In the coastal zone outside of the Gualala Town Plan area, on properties with zoning classifications that do not allow multi-family residential uses, an ADU shall not be allowed if more than one dwelling unit (including farm employee housing, farm labor housing, temporary family care unit but not including a JADU) is located on the parcel and/or if there currently exists more than one guest cottage and/or more than one detached bedroom on the parcel.
- Correct typo in Section 20.536.005(D) to delete extra word: "to approve act"

As noted in the Agenda Summary, the Planning Commission recommendation to add "more than one" to section 20.458.025(A) is not recommended by County and Coastal Commission staff. This change was originally recommended by the Planning Commission to provide clarification. After further review, it was determined that the phrase would substantively alter the meaning of the section and create inconsistencies within the ordinance. The language change creates a potential conflict between the limitations on Accessory Living Units contained in section 20.456.015(G) and could create issues on sites that contain a guest cottage and detached bedroom. Coastal Commission staff confirmed, on October 26, 2021, that this change would make a substantive change to the standard and, if adopted, would trigger the need for a resubmittal of the Local Coastal Program amendment and a new Coastal Commission hearing, delaying this amendment by many months. As such, staff recommends that the Board does not adopt this change and has not included it in the Ordinance (Attachment 5) before the Board.

After the Planning Commission's review of the ordinance, staff noticed that the order of the sections in the ordinance relating to renumbering of sections in Chapter 20.536 needed to be revised to ensure proper amendment and codification. The sections within the redline Ordinance (Attachment 2) remain as they were originally presented to the Planning Commission and Coastal Commission, and the sections within the clean Ordinance (Attachment 5) have been corrected (sections 24 through 28). This change to the order of the sections within the Ordinance does not affect the substance of the ordinance, and the content is the same as what was reviewed by the Planning Commission and Coastal Commission.

In order for the Board of Supervisors to adopt the Local Coastal Program Amendment (GP_2018-0003 and OA_2018-0009), staff recommends that the following two actions be taken at the November 9, 2021 meeting:

1. Adopt a Resolution of the the Mendocino County Board of Supervisors adopting an amendment of the Coastal Element of the Mendocino County General Plan (GP_2018-0003) to establish regulations for accessory dwelling units in the coastal zone of Mendocino County (Attachment 4).
2. Adopt an ordinance amending Mendocino County Code, Title 20, Division II, Chapters 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, and 20.544 (OA_2018-0009) (Attachment 5).

Once the County's process for adopting the LCP Amendment is completed, the Executive Director of the Coastal Commission must confirm that the County's actions are consistent with those taken by the Coastal Commission on September 9, 2021 and then report his findings to the Coastal Commission. When that has occurred, the LCP Amendment will become effective and the County may begin implementation. That is expected to occur in early 2022.

GENERAL PLAN CONSISTENCY ANALYSIS: The 2019-2027 Housing Element of the General Plan contains the following policies related to Accessory Residential/Second Residential Units:

- Policy 1.4 - Recognize that the different regions of the County have varying housing needs unique to the specific geographic regions.
- Action 1.4b - Address issues associated with Vacation Home Rentals (VHRs) in residential communities to ensure safe and healthy housing opportunities are provided.
- Policy 3.1 - Encourage the development of an adequate supply of housing and range of housing densities and types to meet the diverse needs of County residents.
- Policy 3.2 - Promote the development of ADUs.
- Action 3.2a - Continue efforts around the development of ADUs and explore additional incentives to promote ADUs to help ensure RHNA progress. Continue to publicize the opportunities for and encourage the production of ADUs for full-time occupancy and encourage family care units. Create resource materials to better facilitate and guide prospective ADU construction.

Staff recommends that the Board find that the proposed amendments are consistent with the 2009 Mendocino County General Plan, as well as the 2019-2027 Housing Element. The amendments align with the County's intention of encouraging and facilitating the development of an adequate supply of housing and specifically promoting the development of ADUs within the Coastal Zone.

ENVIRONMENTAL DETERMINATION:

Pursuant to CEQA Guidelines Section 15282(h), "the adoption of an ordinance regarding second units in a single-family or multi-family zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code", is statutorily exempt from CEQA, based on Public Resources Code section 21080.17.

In addition, pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; CEQA) does not apply to activities and approvals by a local government as necessary for the preparation and adoption of a local coastal program pursuant to the California Coastal act (Public Resources Code Section 30000 et seq.), and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal programs is shifted from the County to the California Coastal Commission.

ATTACHMENTS:

1. Coastal Element of the General Plan - LCP Amendment with Suggested Modifications (GP_2018-0003)
2. Coastal Zoning Code - LCP Amendment with Suggested Modifications (OA_2018-0009)
3. Planning Commission Resolution No. 2021-0012
4. Board of Supervisors Resolution Adopting Coastal Element Amendments (GP_2018-0003)
5. Ordinance Amending Coastal Zoning Code (OA_2018-0009)
6. California Coastal Commission Hearing Packet (September 9, 2021)
7. Planning Commission Hearing Packet (October 7, 2021)