



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**

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## MEMORANDUM

**DATE:** OCTOBER 7, 2021

**TO:** PLANNING COMMISSION

**FROM:** JULIA KROG; ASSISTANT DIRECTOR, PLANNING & BUILDING SERVICES  
LINDA RUFFING; PLANNING CONSULTANT

**SUBJECT:** LOCAL COASTAL PROGRAM AMENDMENT TO ALLOW ACCESSORY DWELLING  
UNITS IN THE COASTAL ZONE  
GP\_2018-0003 (COASTAL ELEMENT OF GENERAL PLAN)  
OA\_2018-0009 (TITLE 20, DIVISION II, COASTAL ZONING CODE)

### OVERVIEW

In 1985, the Mendocino County Board of Supervisors adopted a Local Coastal Program (LCP) Land Use Plan (Coastal Element of the General Plan) which was subsequently certified by the California Coastal Commission. In 1991, the Board adopted an Implementation Program for the LCP (Division II of Title 20 of Mendocino County Code) which also was certified by the Coastal Commission. When certifying Mendocino County's LCP, the Coastal Commission specifically prohibited the development of accessory dwelling units (ADUs) in the coastal zone due to the limited capacity of State Route 1 and the requirement that State Route 1 remain a scenic two-lane road in rural Mendocino County per Coastal Act Section 30254. (Note: The Mendocino Town Plan and Gualala Town Plan both allow ADUs within their respective planning areas.)

Over the past several years, the California legislature has passed a number of bills intended to remove barriers to development of ADUs with the goal of increasing the availability of affordable rental housing throughout the state. These bills are codified in California Government Code Section 65852.2, et seq. Gov't. Code Section 65852.2(j) specifies that:

"Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units."

Thus, the process of establishing an ordinance to regulate ADUs within the coastal zone requires a thoughtful balancing of the mandates of the State's ADU legislation with the coastal resource protections of the Coastal Act and establishment of coastal permitting procedures that do not include a public hearing.

On July 18, 2019, the Planning Commission conducted a public hearing and reviewed draft amendments to the General Plan Coastal Element (GP\_2018-0003) and to the Coastal Zoning Code (OA\_2018-0009) which would modify Mendocino County's LCP to establish regulations for ADUs in the coastal zone outside of the Town of Mendocino. The Planning Commission adopted a resolution formally recommending to the Board of Supervisors that the LCP amendment be submitted to the Coastal Commission for certification. On November 5, 2019, the Board of Supervisors adopted Resolution No. 19-378 authorizing submittal of an LCP amendment application to the Coastal Commission.

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 information

(Attachment 1). In response, the County submitted additional analysis and documentation to address the stated 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 the County to provide clarification, correct inconsistencies, and address new ADU laws that took effect after the Board's action on the application.

Commission staff deemed the LCP amendment application to be 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 report from County staff regarding the draft "suggested modifications" recommended by Coastal Commission staff. On September 9, 2021, the Coastal Commission certified the County's LCP amendment with suggested modifications that include the friendly modifications requested by the County and Commission staff's suggested modifications to ensure consistency with the Coastal Act.

The LCP amendment, consisting of GP\_2018-0003 and OA\_2018-0009, has been revised to include the suggested modifications per the Coastal Commission's certification and is now brought forward to the Planning Commission for a formal recommendation to the Board of Supervisors. Board action is required to adopt the Land Use Plan amendments (GP\_2018-0003) and the Implementation Program amendments (OA\_2018-0009).

Attachment 2 presents proposed amendments to Land Use Plan to address ADUs. GP\_2018-0003 amends Chapters 3.2, 3.3, and 3.9 of the Coastal Element of the Mendocino County General Plan.

Attachment 3 presents proposed amendments to the Implementation Program to remove the prohibition on ADUs and establish regulations for development of ADUs and 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.

Attachment 4 is a draft Planning Commission resolution providing a formal written recommendation to the Board of Supervisors supporting adoption of GP\_2018-0003 and OA\_2018-0009.

At this stage of the process, any substantive modifications to the LCP amendment and the Coastal Commission's suggested modifications, as shown in Attachment 2 and Attachment 3, would require resubmittal of an LCP amendment application to the Coastal Commission.

### **AMENDMENTS TO LAND USE PLAN POLICIES (GP\_2018-0003)**

To comply with the mandates of State ADU laws, three policies in the LUP which state that "one housing unit" shall be permitted on each parcel must be amended. As shown in Attachment 2, the LUP amendment adds the following statement to Policies 3.2-1, 3.3-5 and 3.9-1:

Accessory dwelling units (ADUs) or junior accessory dwelling units (JADUs) may also be permitted consistent with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II).

The Coastal Commission's suggested modifications include language in Policies 3.2-1 and 3.3-5 indicating that, on agricultural lands or timberlands:

Detached ADUs may only be permitted if located within an existing legally-authorized residential structure and/or clustered with the primary residence.

For Policy 3.9-1, the Coastal Commission's suggested modifications include language referencing the caps on the number of ADUs (500 units in the coastal zone outside of the Gualala Town Plan area; 100 ADUs within

the Gualala Town Plan area) and the requirement for an LCP amendment in order to remove or modify those caps.

### **AMENDMENTS TO IMPLEMENTATION PROGRAM REGULATIONS (OA\_2018-0009)**

The following summary provides a brief overview of the Coastal Commission's suggested modifications to the proposed ADU regulations in the Coastal Zoning Code, as shown in Attachment 3.

#### **Definitions**

Modifications to the definitions primarily provide clarifications, update cross-references and address ADU legislation that took effect on January 1, 2020. For brevity, the County requested a modification to refer to ADUs and JADUs by their acronyms throughout the ordinance. In addition, a definition was added for "legally authorized residential structure," a new term that is referenced in other sections of the ordinance.

#### **Cap on Number of ADUs**

In Section 20.458.010, the Commission added language to clarify that, prior to an LCP amendment to modify the cap on ADUs in the Gualala Town Plan area, an analysis of water and sewer capacity will be required, as well as an analysis of traffic capacity on State Route 1.

#### **Standards for ADUs and JADUs**

As shown in Attachment 3, the LCP amendment includes new Sections 20.458.015, 20.458.020, 20.458.025, 20.458.030, 20.458.035 and 20.458.040 which establish general and specific standards for ADUs and JADUs. Substantive modifications to these sections include revisions necessary to conform the standards to updated State ADU legislation and the following modifications required by the Coastal Commission:

- Section 20.458.020(A) clarifies that a certificate of occupancy for an ADU may not be issued before the certificate of occupancy for the primary dwelling.
- Section 20.458.020(F)(1) requires that, on properties with an ADU or JADU, none of the dwelling units may be used for transient habitation. The County's LCP amendment application had only prohibited use of the ADU and/or JADU for transient habitation. The County Board of Supervisors reviewed this modification on June 9, 2021 and expressed support for the change.
- Section 20.458.020(F)(2) clarifies that, for ADUs and JADUs that are located within 125 feet of a coastal bluff, the deed restriction identifying the prohibition on use of ADUs, JADUs and dwellings for transient occupation shall also include the Commission's required prohibition on shoreline protective devices.
- Sections 20.458.040(B) and (C) are modified to clarify that JADUs that require CDPs and which result in additional bedrooms are subject to review of water and sewage disposal availability by the Division of Environmental Health. The Commission also deleted references to the County's guidelines for conducting such evaluations rather than incorporate those guidelines into the certified LCP.

#### **Coastal Resource Protections**

Section 20.458.045 establishes objective standards for ADUs and JADUs to ensure protection of coastal resources in accordance with LCP and Coastal Act policies. Substantive modifications required by the Coastal Commission include the following:

- Throughout Section 20.458.045, references to allowing exceptions to the objective standards "through the administrative or standard coastal development permit process" were changed to strike "~~or standard~~". This is consistent with required modifications to Section 20.532.015 that

establish an administrative coastal permit process for ADUs and JADUs that will allow for the exercise of discretionary judgment without the requirement for a public hearing.

- Section 20.458.045(C) was modified to require that ministerially-approved ADUs in Highly Scenic Areas must be "permanently and entirely blocked from view" and to establish design standards for ADUs located outside of Highly Scenic Areas that are visible from a public viewpoint.
- Section 20.458.045(E) was modified to require that detached ADUs on parcels with resource zoning (AG, RL, FL, TPZ) be setback no more than 100 feet from the existing or proposed legally-authorized primary residence and that they utilize an existing driveway. The modifications exempt from the clustering requirement ADUs that are established in "a legally-authorized residential structure existing as of the effective date of the ordinance." Ancillary development to support ADUs and JADUs is also required to be clustered.

### **Permit Requirements for ADUs**

Modifications to Sections 20.532.015(A) and 20.536.005 are proposed to establish procedures for obtaining an administrative CDP in instances where an applicant requests an exception to the objective standards established in Section 20.458.045. The modifications clarify that ADUs and JADUs that are appealable to the Coastal Commission may utilize the administrative CDP process and that administrative CDPs for ADUs and/or JADUs are not appealable to the Board of Supervisors.

Section 20.532.055 is modified to provide clarifications regarding the 60-day time period for acting on a ministerial or administrative CDP for an ADU and/or JADU. The section now also includes "Failure to act" provisions based on language that was agreed upon by the County and Coastal Commission in a recent amendment of the Zoning Code for the Town of Mendocino.

### **NEXT STEPS**

The remaining process for approval of the LCP amendment for ADUs and JADUs includes the following steps:

- 1) The Planning Commission will conduct a public hearing, review the LCP amendment, and make a recommendation by resolution to the Board of Supervisors.
- 2) The Board of Supervisors will receive the Planning Commission's recommendation, conduct a public hearing, take action by resolution on the General Plan amendment and take action by ordinance on the Zoning Code amendment. The Board is tentatively scheduled to conduct a public hearing and consider action on the LCP amendment on November 9, 2021. Adoption of Ordinance OA\_2018-0009 requires a two-step process whereby the ordinance would be introduced at one meeting and adopted at a subsequent meeting.
- 3) Lastly, the Executive Director of the Coastal Commission will "sign off" on whether the final actions taken by the Board of Supervisors are consistent with the Coastal Commission's certification of the LCP amendment and report his findings to the Coastal Commission.

A reasonable projection is that these steps will be completed and the new ADU regulations for the coastal zone will be in full force and effect in February 2022.

### **CEQA 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 Sections 65852.1 and 65852.2 of the Government Code" is statutorily exempt from CEQA, based on Public Resources Code Section 21080.17.

### **GENERAL PLAN CONSISTENCY ANALYSIS**

The Housing Element of the General Plan contains the following policies related to ADUs:

- 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 proposed LCP amendment is consistent with the 2009 Mendocino County General Plan, as well as the 2019-2027 Update to the Housing Element. The LCP amendment aligns with the County's intention of encouraging and facilitating the development of an adequate supply of housing.

#### **RECOMMENDED MOTION FOR THE PLANNING COMMISSION**

Adopt resolution making the Planning Commission's report and recommendation to the Board of Supervisors on a proposed amendment to the Coastal Element of the Mendocino County General Plan (Policies 3.2-1, 3.3-5, and 3.9-1) and a proposed amendment to the Coastal Zoning Code (Title 20 – Division II of the Mendocino County Code, Chapters 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536 and 20.544), finding that the actions are statutorily exempt from CEQA pursuant to Public Resources Code Section 21080.17.

#### **ATTACHMENTS**

1. March 30, 2020 Coastal Commission filing letter
2. Proposed GP\_2018-0003 (redline)
3. Proposed OA\_2018-0009 (redline)
4. Resolution of the Planning Commission