

Attachment A

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Attachment A - Discussion

Background

California Planning and Zoning Law governing Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) has been updated multiple times over the last several years to streamline the process for constructing these units. The updated legislation includes standards for where local governments may allow/disallow ADUs and JADUs, and the kinds of development standards that local governments may impose, such as structure height, setbacks, building site coverage, minimum parking requirements, and objective design standards. When local governments do not have an ordinance consistent with these provisions of California Planning and Zoning Law, the state law supersedes any locally adopted regulations.

An important caveat to this is Government Code section 66329, which states that nothing in this section [Planning and Zoning Law regarding ADUs/JADUs] lessens requirements of the Coastal Act, except that local agencies are not required to hold public hearings for coastal development permits to allow ADUs. At the same time Coastal Act section 30007 states that the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low- and moderate-income housing...,” “... or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” These appear to contradict each other and have created uncertainty with how to implement ADU regulations in the Coastal Zone.

To harmonize the two state laws, state ADU/JADU law applies, except in circumstances when they contradict the Coastal Act’s resource protection requirements as implemented through the County’s Local Coastal Program. This interpretation aligns with the guidance memo provided by California Coastal Commission (CCC) staff on January 21, 2022, which states that certain requirements of the state ADU/JADU law may need to be negated, but only to protect coastal resources in compliance with the Coastal Act. To address the state mandates and provide clear direction to staff and the public on standards applicable to ADU/JADU development, the County’s Local Coastal Program must be amended.

The County has a certified Local Coastal Program, which includes four land use plans (North County, Del Monte Forest, Carmel, and Big Sur), and the Monterey County Coastal Implementation Plan (Parts 1 – 6). Comprehensively, these are referred to as the Local Coastal Plan (LCP). The County’s coastal zoning ordinance, Title 20 of the Monterey County Code, is Part 1 of the Coastal Implementation Plan. As it applies to this project, amendments to the LCP must be certified by the California Coastal Commission (CCC) as consistent with the Coastal Act before they can go into effect, and in updating its LCP the County should ensure vertical consistency between the overarching land use plan policies and their implementing regulations.

In 2015 the Board adopted updates to the LCP addressing a number of housing related policy areas, including ADUs. The LCP updated replaced caretaker units and senior citizen units with accessory dwelling units, created new development standards for ADUs. This 2015 amendment also updated the text and policies of the Big Sur Coast, Carmel Area, and Del Monte Forest Land Use Plans to reflect the change from caretaker units and senior citizen units to ADUs. These are the policies and regulations related to ADUs that are currently in effect in the County’s Coastal Zone areas.

Since 2015 the state legislature enacted a series of additional laws relative to ADUs and JADUs.

In response to changes in state legislation, in 2020 the Board considered updates to ADU and JADU regulations in both Title 21 (Inland Zoning) and Title 20 (Coastal zoning). The intent behind those updates was to craft ADU and JADU regulations that deferred mostly to state law, while incorporating certain specific provisions to address other resource policies applicable in unincorporated Monterey County. While both the inland and coastal updates were adopted by the Board of Supervisors, the coastal updates were never certified by the Coastal Commission, and therefore never went into effect in the Coastal Zone.

After the Board of Supervisors adoption of the ADU updates in 2020, staff submitted an LCP amendment application (LCP-3-MCO-21-0015-1) to the CCC for certification. Upon review, CCC staff suggested modifications intended to make LCP amendment more consistent with the requirements of the Coastal Act. The suggested modifications included the removal of certain cross references to State Planning and Zoning Law, additional provisions for resource-constrained areas, updates to development standards, and updates to the corresponding Land Use Plans to be internally consistent with ADU/JADU regulations. Since that time additional changes to state ADU laws have been adopted, including amendments to Government Code section 66310 – 66342 in 2020, 2021 and 2024.

As a result of CCC staff input and changes to state law, substantial modifications were needed to the LCP amendment. County staff formally withdrew the LCP amendment application (LCP-3-MCO-21-0015-1) in July of 2023 and has been working to update the proposed coastal regulations since that time.

The draft LCP amendment before the Board of Supervisors is intended to address the CCC staff comments and bring our LCP into compliance with the most recent State Planning and Zoning Law requirements, while ensuring that the LCP is consistent with the Coastal Act.

Title 20 Coastal Zoning Ordinance Amendments

The draft ordinance amending Title 20 of the Monterey County Code (Coastal Zoning Ordinance) updates the objective design standards, revises existing definitions, streamlines the permit process and adjusts the allowed locations for ADUs and JADUs. A repealed and clean version of the proposed update to the Coastal Zoning Ordinance (MCC section 20.64.030) for ADUs and JADUs is included as Section 16 to the ordinance (**Attachments C and D**). The following is a highlight of some of the key changes by subject area.

Definitions of ADUs and JADUs (MCC section 20.06.375 & section 20.06.376)

ADUs: The revised definition of accessory dwelling units is updated to reflect the definition in State Government code, and it introduces several changes from what exists in County Code. Overall, the revised definition broadens the types of structures that can qualify as an ADU and specifies they can be either attached or detached and can be located on properties that allow single family or multifamily dwellings.

JADUs: The definition of a JADU is currently not codified in Title 20 coastal zoning. This updated would add the definition for a JADU to mirror the language in State Government Code.

Areas where ADU's and JADU's are Allowed (MCC section 20.64.030 & zoning districts)

Currently adopted ADU regulations specify that ADUs are allowed within the High Density Residential (HDR(CZ)), Medium Density Residential (MDR(CZ)), Low Density Residential (LDR(CZ)), Rural Density Residential (RDR(CZ)), and Watershed and Scenic Conservation (WSC(CZ)) zoning districts. ADUs are prohibited in certain unincorporated coastal areas including: any zoning district combined with a B-8 zoning overlay; the native Cypress habitat of the Del Monte Forest Land Use Plan; on lots less than forty (40) acre of the Carmel Area Land Use Plan area; Critical viewshed of the Big Sur Land Use Plan; and in the North County Land Use Plan area.

Current state law requires that ADUs and JADUs be allowed in zoning districts that permit single-family or multiple family residential use. Therefore, this update will allow ADUs and JADUs in all the following zoning districts, which includes the previously allowed zoning districts as well as those commercial and agricultural zoning districts that allow such residential uses:

- High Density Residential (HDR(CZ)),
- Medium Density Residential (MDR(CZ)),
- Low Density Residential (LDR(CZ)),
- Rural Density Residential (RDR(CZ)),
- Watershed and Scenic Conservation (WSC(CZ)) zoning districts,
- Coastal General Commercial (CGC(CZ)),
- Moss Landing Commercial (MLC(CZ)),
- Visitor-Serving Commercial (VSC(CZ)),
- Coastal Agricultural Preserve (CAP(CZ)), and
- Agricultural Conservation (AC(CZ)).

The prohibition on ADUs in the native cypress habitat is removed as the Environmentally Sensitive Habitat Area policy 20 of the Del Monte Forest Land Use Plan states “All development in and adjacent to the Monterey cypress habitat mapped in Figure 2a shall be carefully sited and designed to avoid potential damage or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees, and shall be required to include measures that will enhance Monterey cypress habitat values. All use and development in or adjacent to indigenous Monterey cypress habitat areas shall be compatible with the objective of protecting this environmentally sensitive coastal resource. All improvements (such as structures and driveways, etc.) shall be carefully sited and designed to avoid potential damage and/or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees”. The policy allows development with the native cypress habitat, and it intends to site such development in way to be compatible with the objective of protecting this environmentally sensitive coastal resource.

Coastal Permitting Requirements (MCC section 20.70.120, section 20.64.030 & zoning districts)

The proposed ordinance establishes a three-tier approval process for ADUs and JADUs, based on their impact.

Exempt ADUs/JADUs - Certain ADUs may be exempt from the requirement for a Coastal Permit if they are consistent with applicable Local Coastal Program (LCP) regulations and fall within

the classes of development types specified in California Code of Regulations. (CCR) Title 14, section 13250. CCR section 13250 “Improvements to Existing Single-Family Residences” states that where there is an existing single family residence, certain classes of development shall be considered a part of that structure and hence shall not require a CDP. The classes of developments include all fixtures and other structures directly attached to a residence; structures on the property normally associated with a single-family residence and landscaping. Under the existing CCR 13250 regulations JADUs and attached ADUs may be exempt from a CDP. However, CCR 13250 also provides a list of exceptions to the permit exemption. An ADU or JADU is not exempt from a permit where the development involves impacts to coastal resources such as development on a beach, wetland, in an environmentally sensitive habitat area, within highly scenic areas, or within fifty feet of a coastal bluff edge. If the development of a JADU or attached ADU falls within one of these exceptions to the exemption it would no longer qualify to be exempt from permitting. This exemption incentivizes applicants to avoid coastal resources when proposing an ADU/JADU and facilitate a streamlined approval and is required to harmonize with Coastal Act policies.

Coastal Administrative Permit - ADUs that are not listed under the exempt types in CCR 13250 will require a Coastal Administrative Permit (CAP). An application for a CAP for an ADU shall be processed in accordance with the requirements of Chapter 20.76 the Coastal Zoning Ordinance, except that no public hearing shall be required. The processing of ADUs through a Coastal Administrative Permit aims to expedite workflow, reduce processing time for these minor and non-controversial developments, and decrease the impact on time, materials, and costs associated with certain discretionary permits. The current Board adopted fee schedule for an CAP is \$5,500.

Coastal Development Permit, if required - A Coastal Development Permit may be necessary for an ADU if the project includes impacts on coastal resources that trigger such a permit pursuant to other sections of the Monterey County Code. The County’s zoning has a number of permit triggers that are specific to the protection of coastal resources which would not be affected by the exemption, such as development in or within 100 feet of environmentally sensitive habitat area, removal of protected trees, development on slopes, and development within the critical viewshed, among others.

Timeline and Hearings - According to Planning and Zoning law, the permitting agency must approve or deny the application to create or serve an ADU or JADU within 60 days from the date the agency receives a completed application, provided there is an existing single-family or multifamily dwelling on the lot. This expedited timeline encourages the swift development of ADUs, addressing housing shortages more effectively. The one provision of Sate ADU law that does change application of the Coastal Act is that local governments are not required to hold public hearings for ADUs. This provision maintains the integrity of coastal protection while streamlining the ADU approval process. Both of these provisions are included in the draft ordinance.

Parking (MCC section 20.58.040, section 20.64.030 & CIP Part 6 Appendices):

State Planning and Zoning law allows local agencies to impose parking standards for ADU’s and JADUs, “a local agency may reduce or eliminate parking requirements for any accessory

dwelling unit located within its jurisdiction.” (section 66314(b)(2)). The current County regulations requires one off-street parking space per ADU. The 2020 ordinance adopted by the Board removed the requirement for off street parking spaces for ADUs Countywide. However, in coordination with CCC staff and to avoid conflicts with the Coastal Act, ADUs are required to meet parking standards in areas near Carmel Point and the Carmel Rivera due to impacts that on-street parking may have on public access.

Staff mapped areas in the Carmel Area Land Use Plan where parking is required (**Attachment C**). As it relates to public access, the Carmel Area Land Use Plan divides the shoreline sections into six separated destinations. Of the six, there are three sections that identified as the most important major access areas to be retained for long-term public use: Point Lobos Reserve, Carmel Point, and Carmel River State Beach. These areas have the highest level of recreational use:

- Point Lobos State Reserve – Publicly owned as holdings of the State Department of Parks and Recreation. This section of shoreline contains the majority of accessways and has an established history of regular use by large numbers of visitors. Public access is provided by the existing trail system and existing parking facilities. This area is designated as Forest and Upland Habitat in the Carmel Area Land Use Plan, not residential, so generated parking from residential development associated with ADU construction would not be applicable here. Therefore, staff do not recommend a parking overlay in this area.
- Carmel Point - The high recreational use levels along the Scenic Road corridor, the lack of parking and other support facilities, and the lack of separation between public lands and private property on the ocean-side of Scenic Road creates parking related conflicts. Existing parking facilities do not satisfy the demand during peak use periods. Several areas along scenic road are marked with no parking allowed signs due inadequate road configuration and width. At present time, Scenic Road is operating as a one-way road and portions along the road are so narrow, no parking can be accommodated. Inadequate parking and lack of suitable parking sites has led to short term parking along Scenic Road and overflow into adjacent streets. Consistent with policy 5.3.3.1.a the Carmel Point, Scenic Road has been identified as major access area to be retained for long-term public use.
- Carmel River State Beach – Carmel River State Beach is a destination that receives a high level of recreational use. The existing 28-30-space parking lot does not satisfy demand during peak use periods. Expansion of the parking facility would encroach upon both critical habitat and shoreline destination. Adjacent streets are designated with “No Parking” on the seaward side along Scenic Road and Carmelo Road. On the residential street side there was some observed on street parking used for recreation uses. Consistent with policy 5.3.3.4 scenic road has been identified as visual access area that should be permanently protected as an important component of shoreline access and recreational use.

Staff designated Scenic Road and adjacent streets extending 500 feet from the Scenic Road as ADU parking required consistent with, which would require off-street parking to ensure ADU development would not adversely impact public access in this area.

On parcels within the designated areas shown in the Monterey County Coastal Implementation Plan Appendix 15 “ADU Parking Required,” at least one off-street parking space shall be required for each ADU, and all other off-street parking requirements for other uses onsite shall be met. Parcels outside of the mapped area will not require off street parking for ADUs and no replacement parking spaces will be required if a garage, carport, or other covered parking structure is converted or removed to accommodate an ADU. In all planning areas, including the mapped areas, no off-street parking is required for JADUs.

Square Footage Limitations (MCC section 20.64.030)

The current coastal regulations permit a maximum floor area of 1,200 square feet for an Accessory Dwelling Unit. According to Planning and Zoning law, local governments can establish minimum and maximum size requirements for both attached and detached ADUs by ordinance. However, these regulations must allow for ADUs of at least 850 square feet, or 1,000 square feet for ADUs with more than one bedroom.

For the protection of coastal resources, the Big Sur Coast Land Use Plan, and any area with a “B-8” combining zoning district, impose stricter limits. Here, newly constructed attached and detached ADUs, and conversions of legally constructed accessory structures built after March 25, 2024, must not exceed 1,000 square feet. The B-8 zoning overlay currently prohibits ADUs, but current B-8 regulations permit the first single-family dwelling, additions to dwellings, and non-habitable structures accessory to a dwelling use, without specifying size limitations. A parcel can theoretically apply for a 1,000 square foot addition or a non-habitable structure if it meets the applicable zoning district regulations and it would be allowed. An accessory dwelling unit is an accessory use to existing residential uses which would allow an expansion equivalent to what would be allowed under the current zoning regulations.

In the Carmel Area Land Use Plan, North County Land Use Plan and Del Monte Forest Land Use Plan areas, the proposed ordinance stipulates that newly constructed attached and detached ADUs, as well as conversions of legally constructed accessory structures built after March 25, 2024, must not exceed 1,200 square feet.

Across all planning areas, ADUs created through the conversion of space within an existing main structure must not exceed 50% of the total square footage of the existing main structure. These conversions are considered less impactful to coastal resources as they utilize the existing footprint. Junior accessory dwelling units are allowed in all planning area but are limited to 500 square feet and contained entirely within a single-family residence.

Scenic Resources and Design Review (MCC section 20.64.030)

Previous versions of the ADU regulations required ADU’s to be “...designed in such a manner as to be visually consistent and compatible with the principal residence on-site and other residences in the area.” This was removed and replaced as the new State Planning and Zoning law requires that local development standards and design review be solely based on objective standards. However, the regulations can protect Scenic and Visual resources as required by the Coastal Act. The new regulations would prohibit ADU’s in the Big Sur Critical Viewshed to ensure consistency with the Big Sur Coast Land Use Plan’s scenic resources policies. ADU’s within the Del Monte Forest, Carmel Area, Big Sur Coast planning areas and areas which have

the Design Control “D” combining district will require a Design Approval permit. The Design Approval is intended to implement section 30251 of the Coastal Act which discusses the requirement for Scenic and Visual Resource Protection for new development. Government code 66329 states, “Nothing in this article 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”. The Design Approval will be processed at a staff level and will not be subject appeals, this ensures that there is harmony between State ADU law and the Coastal Act.

North County Water Efficiency Requirements (MCC section 20.64.030)

To allow ADUs in the North County Land Use Plan area staff explored incorporating water conservation measures to provide applicants with guidance on how to demonstrate that a development results in efficient water use. North County Land Use Plan specifies that groundwater should be managed as a valuable and limited resource. A project that meets the incorporates water conservation measures is expected to have a less than significant impact on groundwater resources. The proposed water conservation measures were developed by review of existing water conservation practices in Monterey County, best practices from other rural jurisdictions, and the California Green Building Standards Code. Specific measures include the use of low-flow fixtures, energy efficient appliances and drought-resistant landscaping. These measures are designed to maximize water efficiency and minimize the strain on local groundwater supplies. These efforts reflect a commitment to responsible resource management and long-term environmental protection. These measures have also been incorporated to address concerns raised by CCC staff in the review of prior LCP amendments. Currently, ADUs are not permitted in the North County Coastal areas. The proposed ordinance would permit ADUs with water conservation measures incorporated in this area.

Land Use Plan Amendments

Big Sur Coast Land Use Plan:

The text and policies of Chapter 5 of the Big Sur Coast Land Use Plan (Land Use and Development regulations) would be updated to add language to encourage ADUs and JADUs as an additional means of providing Low and Moderate Housing Opportunities. ADUs will be limited to 1,000 square feet in size in the Big Sur Planning Area. The size requirement for ADUs differs from other planning areas due to the resource constraints unique to the Big Sur Land Use Plan area. In addition, the amendments propose a 90-day minimum rental duration of the accessory dwelling units and junior accessory dwelling units to ensure that the units are used for long-term residential purposes and avoid monthly or shorter-term vacation rentals.

Carmel Land Use Plan:

The Low and Moderate Income housing specific policy (Policy 4.4.3.H.2 of the Carmel Land Use Plan) would be updated to encourage junior accessory dwelling units as a means of providing affordable housing, remove a preference for attached accessory dwelling units, and remove a 40-acre minimum site requirement. Government Code section 66314(b) states that local agencies cannot impose a minimum lot size for the development of an ADU. The square footage and number of units would also be removed from this policy as that level of detail on the

development standards is addressed in the Coastal Zoning regulations.

North County Land Use Plan:

Currently, in the North County Land Use Plan area, water supply is a concern. North County Land Use Plan specific policy 2.5.3.2 limits groundwater uses to a safe-yield level and restricts new development to a level not exceeding 50% of the established residential buildout in North County due to water supply concerns. Additional residential development beyond the 50% is permitted only after safe water yields have been established or other water supplies are determined to be available through an approved LCP amendment. Any amendment request must be based on definitive water studies and include appropriate water management programs. Given the state of the groundwater basins in the North County Land Use Plan area, the proposed LCP amendment includes measures to protect groundwater resources and minimize impacts that new ADUs and JADUs could have on existing overdraft conditions.

In 2014, the state legislature adopted the Sustainable Groundwater Management Act. This act placed the responsibility of sustainable groundwater management on a number of Groundwater Sustainability Agencies. The primary groundwater subbasins in the Coastal North County Land Use Plan area include the 180/400-Foot basin, Langley basin, and the Pajaro Valley basin. The Pajaro Valley Water Management Agency and the Salinas Valley Groundwater Sustainability Agency are the GSAs with primary oversight of water resources in these subbasins. Both agencies are required to manage basins sustainably through the development and implementation of Groundwater Sustainability Plans. GSPs are required to contain several key elements, including: a Sustainability Goal; groundwater conditions and a water budget; locally defined sustainability criteria and protocols for monitoring sustainability indicators; and a description of projects and/or management actions that will be implemented to achieve or maintain sustainable groundwater resources.

Data from the published Groundwater Sustainability Plans (GSPs) indicates that between 80% and 95% of groundwater pumping in the subbasins within the North County planning area is allocated for agricultural purposes, with a smaller portion used for urban and residential uses. The GSPs establish a sustainable yield for both current and projected periods, outlining the reduction in subbasin-wide pumping necessary to balance the water budget and prevent any net decrease in groundwater storage. The full residential buildout established in the North County coastal zone under existing zoning is 9,240 units. All three GSPs apply an estimated historical annual water usage rate of 0.3 to 0.5 AF/yr to all non-vacant residential use parcels that are not located in the service area of a public drinking water system. Water usage for these parcels is associated with a median parcel size of 1.25 acres with the upper ranges applied to parcels that are larger than the median. Applying the historical water usage rate and multiplying it by the full residential buildout in North County coastal, the total annual non-vacant residential pumping for parcels served by wells is estimated to range between 2,772 and 4,620 AF/yr across the subbasins in the North County Coastal area. This calculation does not consider residential parcels that are served by a public drinking water system. Under the proposed ordinance residential parcels will be able to build one JADU and one ADU with the potential to increase water usage. Due to ADUs being smaller by design an estimated water usage rate of 0.3 AF/yr is applied per additional unit, potentially increasing total residential pumping by 2,772 AF/yr beyond the existing estimated full buildout water usage across the three subbasins. JADUs are anticipated to

have no significant increase in groundwater use.

Based on available data, this amendment to the ADU/JADU regulations is not expected to adversely impact water supply or worsen existing conditions. The groundwater sustainability plans include both projects and management actions designed to reduce aquifer overdraft conditions and help subbasins reach sustainability. These plans, alongside the ADU/JADU water conservation measures, establish a framework for sustainable water use. The GSPs outline management actions, which support sustainability without requiring infrastructure. These include conservation and agricultural best management practices to help growers use water more efficiently, such as land fallowing and retiring agricultural land. Residential areas, both urban and rural, also have ongoing conservation measures like low-flow toilet fixtures, laundry-to-landscape greywater systems, and rainwater catchment systems. The proposed ADU/JADU regulations align with GSP recommendations by mandating water-efficient fixtures and measures, minimizing impact on safe water yields while also creating needed housing opportunities.

As a result of this interpretation, Subsection c) of subsection 2 of subsection *Low and Moderate Income Housing* of subsection D of section 4.3.6 would be added to include encouraging accessory dwelling units and junior accessory dwelling units as a means of providing affordable housing. ADUs and JADUs will also be required to incorporate additional water conservation standards. The level of detail on the water conservation development standards is addressed in the Title 20 regulations. ADUs and JADUs will not be counted towards the buildout limitations established in the North County Plan area.

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