

Exhibit A

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Exhibit A - Discussion

Background

State Planning and Zoning Law governing Accessory Dwelling Units and Junior Accessory Dwelling Units 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 State 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 [State 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.

Therefore, the State Planning and Zoning Law requirements apply, except in circumstances when they contradict the Coastal Act’s resource protection requirements as implemented through the County’s Local Coastal Program. However, the Coastal Act does not alleviate the County from complying with the new housing laws, and therefore the County must update its Local Coastal Program to harmonize these two state mandates. 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 law may need to be negated, but only to protect coastal resources in compliance with the Coastal Act. This entails updating the County’s Local Coastal Program to implement the state ADU requirements to the extent that they can be harmonized with Coastal Act requirements; though complying with the Coastal Act may entail discretionary review and resource protection policies for ADUs and JADUs that would not be applicable (or otherwise allowable) in inland areas of the County.

The County has a certified Local Coastal Program (LCP), which includes four land use plans, the Monterey County Coastal Implementation Plan, and a number of appendices. In turn 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, including its land use plans and the coastal zoning ordinance (Title 20) must be certified by the California Coastal Commission 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 2011, the Board of Supervisors adopted an LCP amendment that replaced references to caretaker units with accessory dwelling units in Title 20. A subsequent update in 2015 addressing a number of housing related policy areas, updated regulations for accessory dwelling units in Title 20, including reclassifying previously permitted caretaker units and senior citizen

units with accessory dwelling units, specifying where they may be allowed, and including the development standards for them. 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 this change. These are the policies and regulations related to ADUs that are currently in effect in the County's Coastal Zone areas.

Following this the state legislature enacted a series of additional laws relative to accessory dwelling units and junior accessory dwelling units between 2017 and 2019. In response to these, in 2020 the County updated the accessory dwelling unit (ADU) and junior accessory dwelling unit (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 California Coastal Commission, and therefore never went into effect.

After Board of Supervisors adoption staff submitted Local Coastal Program Amendment application (LCP-3-MCO-21-0015-1) to CCC for certification. Upon review, CCC staff suggested modifications intended to make LCP amendment more consistent with the requirements of the Coastal Act. These 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 the state legislature has also adopted amendments to Government Code section 66310 – 66342 in 2020, 2021 and 2024 relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

As a result of CCC input and changes to state law, substantial modifications were needed to the LCP amendment, so staff formally withdrew the LCPA application (LCP-3-MCO-21-0015-1) in July of 2023. The draft LCP amendment before the Planning Commission 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 updates the objective design standards, revises existing ADU and JADU definitions, streamlines the permit process and adjusts the allowed locations for ADUs and JADUs. A repealed and clean version of the proposed update to MCC section 20.64.030 for accessory dwelling units and junior accessory dwelling units included as Section 16 to the ordinance amending Title 20 and attached as **Exhibits 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, during this update ADUs and JADUs will be allowed 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 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 has established a three-tier approval process for ADUs, based on their impact.

Exempt ADUs/JADUs - First, 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 CCR 13250. CCR 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 where the development involves a risk 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 CDP exemption it would no longer qualify to be an exempt JADU/ADU and will be required to obtain the necessary planning permits. This exemption incentivizes applicants to avoid coastal resources when proposing an ADU/JADU and facilitate a streamlined approval.

Coastal Administrative Permit - Second, ADUs that are not listed under the exempt types in CCR 13250 will require a Coastal Administrative Permit (CAP). An application for a Coastal Administrative Permit for an ADU shall be processed in accordance with the requirements of Chapter 20.76 of this Code, 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.

Coastal Development Permit, as needed - Finally, in addition to a Coastal Administrative Permit, a Coastal Development Permit may be necessary if the project includes components that require 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, development within 750 square feet of archaeological resources, or removal of protected trees.

Timeline and Hearings - According to new State 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 coastal development permit applications 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. Initially County was proposing to remove the requirement for off street parking spaces for ADUs Countywide. However, in order to avoid conflicts regarding parking requirements for ADUs as they may impact public access, local governments are encouraged to work with Coastal Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act.

Staff mapped areas in the Carmel Area Land Use Plan where ADUs parking needs may have an impact to public access shown in **Exhibit C**, the proposed Monterey County Coastal Implementation Plan Appendix 15 “Accessory Dwelling Unit Parking Required”. The Carmel Area Land Use Plan divides the shoreline sections into six separated destinations. Of the six there are three sections that policy 5.3.3.1.a identifies 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, specifically Scenic Road has been identified as major access area to be retained for long-term public use.
- Carmel River State Beach – North, 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.

Therefore, the potential that ADU parking needs are shifted onto adjacent public streets which may adversely affect public coastal access to Scenic Road in the Carmel Point and Carmel River State Beach areas is high. 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 in order 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 (ADU). According to the new State 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, North County 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 if 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 North County Land Use planning area, the size limitation also aims to reduce the number of water fixtures within the units, contributing to water conservation efforts.

In the Carmel Area 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 ADUs (JADUs) 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 efficient water use levels. 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.

Land Use Plan Amendments

Big Sur Coast Land Use Plan:

The text and policies of Chapter 5, Land Use and Development would be updated to add language to encourage ADUs and JADUs in the plan area 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 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 4.4.3.H.2 would be updated to include encouraging 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 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 Title 20 regulations.

North County Land Use Plan:

Currently, in the North County Land Use Plan area, due to critically short water supply levels due to years of water withdrawals from the subsurface aquifers that have resulted in seawater intrusion and degradation of quality of areas potable water source. The County has implemented water saving measures, such as the North County Land Use Plan specific policy 2.5.3.2. This policy 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. 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 by an approved LCP amendment. Any amendment request must be based on definitive water studies and include appropriate water management programs. Staff interpreted Groundwater Sustainability Plans (GSPs) established by groundwater Sustainability Agencies (GSAs) as definitive water studies that include water management programs. Additionally, under current state law, an accessory dwelling unit and junior accessory dwelling shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. Essentially, ADUs in the North County Planning Area would not count towards the buildout limitation currently in effect to implement this state law.

Nevertheless, given the state of the groundwater basins in the North County Land Use Plan area, this amendment should include measures to protect groundwater resources and ensure that new ADU's and JADU's do not exacerbate existing overdraft conditions, as Monterey County relies significantly on groundwater as a crucial water source for agriculture, residential, and industrial purposes.

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 Planning 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.

In reviewing groundwater budgets across all subbasins and comparing them to historical data, and current periods show a decrease in agricultural and rural residential pumping. Data from the published Groundwater Sustainability Plans (GSPs) indicate 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 needs. 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. According to this data, the GSPs demonstrate that overall groundwater pumping has declined from historical levels and is expected to continue decreasing and/or not significantly increase in line with projected demands, putting the region on track to achieve sustainability. 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 three subbasins. 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. Each GSP prioritizes projects that directly benefit its respective aquifer subbasin while also considering multi-subbasin projects that may provide additional support, potentially reducing the need for further actions. Projects are activities requiring infrastructure or physical changes to the environment and are aimed at enhancing groundwater sustainability. They include creek and floodplain restoration to slow water flow and the construction and expansion of facilities for water diversion, ultimately reducing groundwater pumping. 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. Importantly, the GSPs do not propose restrictions on new wells or require reductions in pumping from existing wells. 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.