



# COUNTY OF HUMBOLDT

For the meeting of: 7/13/2021

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File #: 21-884

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Public Hearing on Amendments to the Inland Zoning Regulations, Building Code, and Local Coastal Program Amendment for Accessory Dwelling Units, Case No. PLN-2019-15873.

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Open the public hearing, receive and consider the staff report, and accept public comment;
2. Close the public hearing and deliberate;
3. Adopt Resolution No. \_\_\_\_\_ (Attachment 1) certifying compliance with the California Environmental Quality Act, and making findings of fact concerning amendments to the Inland Zoning and Building Regulations Pertaining to Accessory Dwelling Units;
4. Adopt Ordinance \_\_\_\_\_ (Attachment 2) Amending sections 314-3 and 314-69.05 of Chapter 4 of Division 1 of Title III of the HUMBOLDT County Code, AND section 331.5-7 of Chapter 1.5 of Division 3 OF Title III of the HUMBOLDT County Code (Text Amendments to Inland ADU REGULATIONS), Pertaining to Accessory Dwelling Units Outside the Coastal Zone;
5. Regarding the ordinance amending Section 331.5-7 of Chapter 1.5 of Division 3 of Title III of the Humboldt County Code (Text Amendments to AOB Regulations) (Attachment 3):
  - a. Introduce the ordinance and waive the first reading;
  - b. Set the ordinance for adoption at least one week from this hearing date;
  - c. Direct the Clerk of the Board to publish the required pre-adoption summary of the ordinance and to post a certified copy of the full text of the proposed ordinance in the office of the Clerk of the Board, both the publication and posting to be done at least 5 days prior to the Board meeting at which the ordinance will be adopted [Government Code Section 25124(b)(1)];
  - d. Direct the Clerk of the Board, within 15 days after the adoption of the ordinance, to publish a post-adoption summary of the ordinance with the names of the supervisors voting for and against the ordinance, and to post in the office of the Clerk of the Board a certified copy of the full text of the adopted ordinance along with the names of those supervisors voting for and

against the ordinance [Government Code Section 25124(b)(1)];

6. Adopt Resolution No. \_\_\_\_\_ (Attachment 4) certifying compliance with the California Environmental Quality Act, making findings of fact concerning the Proposed Local Coastal Program Amendment, and adopting amendments to the six Local Coastal Plans contained in Exhibit A of the resolution, all Pertaining to Accessory Dwelling Units;
7. Adopt Ordinance \_\_\_\_\_ (Attachment 5) repealing Ordinance 2651 and adding section 313-69.05; amending sections 313-6 and 313-7, and amending sections 313-107, 313-109, 313-136, 313-137, 313-148, 313-154, 313-155, 313-163, and 313-177 of Chapter 3 of Division 1 of Title III of the HUMBOLDT County Code, COASTAL ZONING CODE; and amending sections 312-6 and 312-9 of Chapter 2 of Division 1 of Title III of the HUMBOLDT County Code, General Provisions, all relating to Accessory Dwelling Units.
8. Direct the Clerk of the Board to publish the Post-Adoption Summaries of the ordinances within 15 days after their passage;
9. Direct Planning and Building Department staff to transmit the Coastal ADU Ordinance and Coastal Plan Amendments, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 305143;
10. Direct Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research; and
11. Direct the Clerk of the Board to give notice of the decision to any interested party.

SOURCE OF FUNDING:

Funding for these amendments is through a Local Early Action Planning (LEAP) grant program awarded in 2020. Approximately \$20,000 has been applied to the Accessory Dwelling Unit Ordinances, including the Cleanup Text Amendments and Local Coastal Program Amendment. The General Fund is a second source, through the Long Range Planning unit, 1100-282.

DISCUSSION:

*Project description*

This proposal contains two parts. First, the text amendments to the Inland Zoning Regulations propose non-controversial corrections and explanatory text changes to the Accessory Dwelling Unit (ADU) Ordinance adopted by the Board of Supervisors on Sept. 1, 2020, and propose a related minor change to the Building Code. Second, amendments are proposed to the six Local Coastal Plans (Land Use Plans) and the Coastal Zoning Regulations, which together make up the Humboldt County Local Coastal Program (hereafter referred to as the LCP). The LCP Amendment establishes regulations for ADUs in the Coastal Zone, along with revisions recommended by the California Coastal Commission staff to enable the LCP to be approved by the Coastal Commission without further modification.

If adopted by the Board, the amendments to the Inland Zoning Regulations will take effect in 30 days.

The amendments to the Building Regulations require a second public hearing which will be scheduled within that same 30-day time period. The LCP, if approved, will be transmitted to the Coastal Commission for certification, replacing an earlier transmittal of Dec. 15, 2020 (withdrawn herein by resolution).

*Part One: Cleanup Text Amendments to the Inland Zoning and Building Regulations*

Since the Inland Accessory Dwelling Unit Ordinance became operative in October of 2020, staff and the public have suggested a number of text corrections and explanatory language that make the ordinance easier to use. The full text of the amendments is included as Attachment 2.

Below is a summary of the text amendments to Humboldt County Code (HCC) Section 314:

- Clarify the size limit on junior accessory dwelling units (JADUs) in Sections 69.05.1 and 69.05.3.8.1;
- Clarify the 1,200 square foot size limit as it pertains to attached and detached ADUs in Section 69.05.4.3;
- Specify that an attached ADU may exceed the 1,200 square foot size limit with a Special Permit, the same as for detached ADUs (69.05.4.3.1);
- Resolve a conflict with HCC 314-102.1.1 regarding height limits (69.05.4.8); and
- Revise zoning table references specifying where ADUs are principally permitted and noting special conditions (Tables 314-3 through 314-8).

The proposed amendment to HCC Section 331.5 Modified Limited Density Rural Owner-Builder (AOB) Regulations creates an exception to the regulation limiting Alternative Owner Builder permits to one per person every 2 years, so that one person can receive permits for both an owner-built dwelling and an owner-built accessory dwelling unit concurrently (331.5-7). A draft of the proposed text changes to the Building Code is included as Attachment 3 to this staff report.

*Part two: Local Coastal Program Amendment*

Staff transmitted a draft of the LCP Amendment to the Coastal Commission for certification on Dec. 15, 2020, at the direction of the Board (Sept. 1, 2020). The commission responded by letter on Jan. 6, 2021, and again in April 5, 2021 requesting further information and recommending revisions. The drafts proposed here incorporate all of the recommendations of Coastal Commission staff since the first transmittal.

Local Coastal Plan Amendments. The proposed amendments to the six Local Coastal Plans (the Humboldt Bay Area Plan, North Coast Area Plan, South Coast Area Plan, Trinidad Area Plan, McKinleyville Area Plan, and Eel River Area Plan) affect certain policies, land use designations, and

zoning provisions relating to Coastal Resource protections with regard to ADUs, as follows:

- Section 3.23 Timberlands and equivalents: language defining elements of the 2-acre residential curtilage is added; a cross-reference to the zoning regulation is added;
- Section 3.24 Agriculture and equivalents: language is added that explicitly allows ADUs as a compatible use, but prohibits ADUs on prime agricultural soil. This incorporates the prohibition in the 313-69.05.4.12 in each Land Use Plan;
- Section 4.10 B Rural Land Use Designations and equivalents: explicitly prohibits ADUs on prime agricultural soil in agricultural land use designations, reiterating the zoning code and the policy of section 3.24 above;
- A number of non-substantive errors and omissions are addressed.

A draft of the proposed amendments is included as Exhibit A to Attachment 4 of this staff report, as part of the resolution approving the LCP.

Coastal ADU Ordinance. The following revisions are proposed to HCC Sections 312 and 313, Coastal Zoning Regulations shown in Attachment 5, including the repeal of the Second Dwelling Unit ordinance, 313-87.1, and adding 313-69.05 in its place. The ordinance does the following:

- Amends Section 312-6 and 312-9 to update and clarify the public hearing requirement and process for ADUs;
- Makes these substantive changes to the previously approved draft of 313-69.05 at the request of Coastal Commission staff: (1) prohibits ADUs on prime agricultural soils in all agricultural designations instead of in AE and AEP only; and (2) adds elements to the definition of the 2-acre residential curtilage area on timberlands;
- Corrects non-substantive errors and omissions in the previous draft of 313-69.05 and adds Coastal Development Permit process clarifications in 312-6.

The purpose of this revision of the previously approved LCP amendment is to facilitate approval by the Coastal Commission without further modification.

### *Planning Commission Review*

The Humboldt County Planning Commission reviewed and considered the amendments to the Inland Zoning Regulations, Building Code and Local Coastal Program for Accessory Dwelling Units, and held a public meeting on May 6, 2021 during which the Amendments passed on consent. The Planning Commission resolution is in Attachment 6.

### *Public comment*

One member of the public submitted a written comment (Attachment 6 - PC Supplemental No. 1, Item G1, May 6, 2021) pointing out that, in light of current and ongoing drought, there is a need for water-

saving options for ADUs outside the areas where public water and sewer are available. The commenter provides suggestions about how these measures might be implemented. The comment was shared with staff at the Department of Health & Human Services - Environmental Health Division.

### *Coastal Commission Review*

By letters on Jan. 6 and April 5, 2021 the California Coastal Commission requested further information and recommended revisions to the county's Dec. 15, 2020 LCPA transmittal. The drafts proposed here reflect revisions recommended by Coastal Commission staff in those letters and in later staff communications. As previously noted, the LCP, if adopted, will be transmitted to the Coastal Commission for certification, replacing the earlier transmittal of Dec. 15, 2020, which is withdrawn herein by resolution.

### *Environmental Review*

Pursuant to Sections 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines, CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program. The certification of a Local Coastal Program Amendment by the California Coastal Commission is exempt from the requirement for preparation of EIRs, Negative Declarations, and Initial Studies because their process for environmental review has been certified by the Secretary of Resources as being the functional equivalent of the process required by CEQA.

### FINANCIAL IMPACT:

Staff costs and other expenses related to public review of this item to date total approximately \$20,000. There will be additional future costs of approximately \$5,000 to codify the amendments and train staff to implement them. Approximately 60% of these costs are eligible for reimbursement from the state through the non-competitive LEAP funding awarded to the county in 2020.

### STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by protecting vulnerable populations .

### OTHER AGENCY INVOLVEMENT:

State Department of Housing and Community Development, California Coastal Commission, Department of Public Works, Department of Health & Human Services - Environmental Health Division and the Office of County Counsel.

### ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to not adopt local standards, and the County would continue to use the state's rules in reviewing applications for ADUs in the coastal zone. No support for this alternative was expressed by anyone during all the public workshops and Planning Commission hearings, so staff does not recommend further consideration of this alternative.

### ATTACHMENTS:

- Attachment 1: Resolution No. \_\_\_\_\_ of the Board of Supervisors of the County of Humboldt Certifying Compliance with the California Environmental Quality Act, and Making Findings of Fact Concerning Amendments to the Inland Zoning and Building Regulations Pertaining to Accessory Dwelling Units.
- Attachment 2: Ordinance No. \_\_\_\_\_, Amending Title III, Division 1, Chapter 4; and Title III, Division 3, Chapter 1.5 of Humboldt County Code Pertaining to Accessory Dwelling Units Outside the Coastal Zone.
- Attachment 3: Ordinance No. \_\_\_\_\_, Ordinance Amending Section 331.5-7 of Chapter 1.5 of Division 3 of Title III of the Humboldt County Code (Text Amendments to AOB Regulations)
- Attachment 4: Resolution No. \_\_\_\_\_, A Resolution of the Board of Supervisors of the County of Humboldt Certifying Compliance with the California Environmental Quality Act, Making Findings of Fact Concerning the Proposed Local Coastal Program Amendment, and Adopting Amendments to the Six Local Coastal Plans contained in Exhibit A of the Resolution, All Pertaining to Accessory Dwelling Units.
- Attachment 5: Ordinance No. \_\_\_\_\_, repealing Ordinance 2651 and adding section 313-69.05; amending sections 313-6 and 313-7, and amending sections 313-107, 313-109, 313-136, 313-137, 313-148, 313-154, 313-155, 313-163, and 313-177 of Chapter 3 of Division 1 of Title III of the HUMBOLDT County Code, Coastal Zoning Code; and amending sections 312-6 and 312-9 of Chapter 2 of Division 1 of Title III of the HUMBOLDT County Code, General Provisions, all relating to Accessory Dwelling Units.
- Attachment 6: Planning Commission Resolution 21-74 recommending adoption of the ADU Text Amendments to the Inland Zoning and Building Regulations, and the Local Coastal Program Amendment pertaining to Accessory Dwelling Units; the May 6, 2021 Planning Commission staff report, and public comments received by the Planning Commission.
- Attachment 7: Post-Adoption Summary of Ordinance amending Title III, Division 1, Chapter 4 of the Humboldt County Code, Inland ADU Regulations and Pre-Adoption Summary of Ordinance amending HCC Section 331.5 Modified Limited Density Rural Owner-Builder (AOB) Regulations.
- Attachment 8: Post-Adoption Summary of Ordinance repealing Ordinance 2651 and amending Title III, Division 1, Chapters 2 and 3 of Humboldt County Code, Coastal Accessory Dwelling Unit Regulations.

PREVIOUS ACTION/REFERRAL:

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**File #:** 21-884

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Board Order No.: L-3  
Meeting of: July 19, 2016  
File No.: 16-4751