



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

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April 1, 2019

Planning – Fort Bragg  
 Department of Transportation  
 Environmental Health - Fort Bragg  
 Building Inspection - Fort Bragg  
 Assessor  
 Farm Advisor  
 Agriculture Commissioner  
 Forestry Advisor  
 Fish and Game Advisory  
 County Water Agency- Sarah Dukett  
 Archaeological Commission  
 Sonoma State University

Resource Lands Protection Committee  
 Native Plant Society  
 Airport Land Use Commission  
 Caltrans  
 CalFire  
 Department of Fish and Wildlife  
 Coastal Commission  
 RWQCB  
 Department of Parks & Recreation  
 State Clearinghouse  
 US Fish & Wildlife Service  
 Gualala Municipal Advisory Council

Westport Municipal Advisory Council  
 City Planning- Fort Bragg  
 Mendocino Transit Authority  
 Sherwood Valley Band of Pomo Indians  
 Redwood Valley Rancheria  
 Cloverdale Rancheria  
 Potter Valley Tribe  
 Coastal Sewer Districts  
 Coastal Water Districts  
 Coastal Fire Districts  
 Coastal Community Services Districts

**CASE#:** OA\_2018-0009/GP\_2018-0003

**DATE FILED:** 04/01/19

**OWNER:** VARIOUS

**APPLICANT:** COUNTY OF MENDOCINO

**AGENT:** PLANNING AND BUILDING SERVICES

**REQUEST:** The County of Mendocino seeks to amend its Local Coastal Program (LCP), which provides planning and zoning regulations for development in the Coastal Zone, to regulate development of Accessory Dwelling Units (ADUs) in compliance with recent State legislation as codified in Gov. Code Section 65852.2. The LCP amendment balances the mandates of the State ADU legislation with the protection of coastal resources under the Coastal Act.

**LOCATION:** Coastal Zone of Mendocino County

**ENVIRONMENTAL DETERMINATION:** The amendment is exempt from further environmental review under CEQA per Public Resources Code Section 21080.17 which exempts the adoption of an ordinance by a city or county to implement the provisions of Government Code Sections 65852.1 and 65852.2. This statutory exemption is also identified in 14 CCR Section 15282(h).

**STAFF PLANNER:** JULIA ACKER

**RESPONSE DUE DATE:** APRIL 30, 2019

**PROJECT INFORMATION CAN BE FOUND AT:**

<https://www.mendocinocounty.org/government/planning-building-services/public-agency-referrals>

Mendocino County Planning & Building Services is soliciting your input, which will be used in staff analysis and forwarded to the appropriate public hearing. You are invited to comment on any aspect of the proposed project(s). Please convey any requirements or conditions your agency requires for project compliance to the project coordinator at the above address, or submit your comments by email to [pbs@mendocinocounty.org](mailto:pbs@mendocinocounty.org). Please note the case number and name of the project coordinator with all correspondence to this department.

We have reviewed the above application and recommend the following (please check one):

- No comment at this time.
- Recommend conditional approval (attached).
- Applicant to submit additional information (attach items needed, or contact the applicant directly, copying Planning and Building Services in any correspondence you may have with the applicant)
- Recommend denial (Attach reasons for recommending denial).
- Recommend preparation of an Environmental Impact Report (attach reasons why an EIR should be required).
- Other comments (attach as necessary).

**REVIEWED BY:**

Signature \_\_\_\_\_

Department \_\_\_\_\_

Date \_\_\_\_\_

## **LCP AMENDMENT SUMMARY:**

**#GP 2018-0003 (MENDOCINO COUNTY COASTAL ELEMENT, CHAPTER 3.9)**

**#OA 2018-0009 (TITLE 20, DIVISION II MENDOCINO COUNTY COASTAL ZONING CODE)**

### **LOCAL COASTAL PROGRAM AMENDMENT TO REGULATE DEVELOPMENT OF ACCESSORY DWELLING UNITS IN COASTAL ZONE OF MENDOCINO COUNTY**

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#### **I. Introduction**

Mendocino County seeks to amend its Local Coastal Program (LCP) to remove barriers to development of Accessory Dwelling Units (ADUs) with the goal of increasing the availability of affordable rental housing while preserving the integrity of Coastal Act protections for coastal resources.

The LCP amendment for ADUs is intended to address the requirements of recent State legislation (SB 1069; AB 2299; AB 2406; SB 229; AB 454) as codified in California Government Code §65852.2, et. seq. In part, the new legislation establishes that:

- ADUs may be located in any zoning district that allows residential uses.
- ADUs are not considered new residential units for the purpose of calculating residential density.
- A ministerial process must be established for ADUs that are located within existing structures.
- Detached ADUs may not exceed 1,200 square feet (SF). Attached ADUs may not exceed 50% of floor area of existing unit or a maximum of 1,200 SF. Junior ADUs (JADUs) may not exceed 500 SF.
- Development standards can be established for ADUs, with certain limitations.
- ADU requirements must not be unnecessarily burdensome.
- ADUs can be prohibited based on health and safety issues.

Currently, Mendocino County's LCP prohibits ADUs (which are referred to as "second residential units") in the coastal zone with three exceptions:

1. ADUs may be permitted in the Gualala Town Plan area;
2. ADUs may be permitted as farm employee housing, farm labor housing, family care units, dwelling groups or residential clustering;
3. ADUs may be permitted in the Town of Mendocino subject to the provisions of the Mendocino Town Plan and the Mendocino Town Zoning Code (Mendocino County Code, Title 20, Division III).

As proposed, the LCP amendment will allow ADUs in all zoning districts which allow single-family dwellings subject to specified standards and procedures as summarized below.

#### **II. ADU Permit Process**

**CDP exemptions.** The following types of ADUs will be exempted from the requirement to obtain a CDP either because either (a) they would not be considered to be "development" or, (b) they meet the requirements for a CDP exemption under the Coastal Act and its implementing regulations (Pub. Resources Code, §30610, subd. (a); Cal. Code Regs., tit. 14, §13250):

- Junior Accessory Dwelling Units (JADUs) located entirely within an existing residence will be exempt from the CDP requirement.
- ADUs attached to an existing residence that meet the requirements for a CDP exemption under CCR Title 14, §13250 will not require a CDP unless required pursuant to a previously issued CDP.

**Ministerial CDPs.** Gov't Code §65852.2(a)(4) requires that the approval of ADUs shall include only ministerial provisions. Therefore, the LCP amendment establishes a new "Ministerial CDP" that will be granted based on an administrative review to determine consistency with objective criteria established in an "ADU Review Checklist." The permitting process for Ministerial CDPs will include notification of property owners within 300', but no public hearing will be required, and no local appeal process will be available. Ministerial CDPs approved for ADUs within "appealable areas" as designated by the Coastal Act will be appealable to the Coastal Commission.

**Standard CDPs.** The "standard" CDP process will be available for ADUs that cannot meet certain objective standards (see ADU Development Standards discussion below). Specifically, the Standard CDP process may be utilized in the following situations:

- If an ADU would be located within 100 feet of an Environmentally Sensitive Habitat Area (ESHA), but where a biological study demonstrates that a minimum 50-foot buffer is protective; or
- If an ADU would be located within 125 feet of the coastal bluff, but where a geotechnical study indicates that the structure would be setback a sufficient distance to protect the structure for 75 years, in compliance with LCP policies; or
- If an ADU in a Highly Scenic Areas is visible from a public road, park or beach and therefore subjective review is necessary to determine whether the development is subordinate to the character of the setting; or
- If an ADU requires more than 20 cubic yards of associated grading and therefore, subjective review is necessary to determine whether the development avoids significant alteration to natural landforms.

**CDP from Coastal Commission required.** On properties for which the Coastal Commission has issued a CDP for a residence, or in locations where the Coastal Commission has retained jurisdiction, an ADU may only be approved by the Coastal Commission. The Commission would utilize a ministerial process for CDP approval based on objective criteria similar to those established by the County.

**ADUs in the Gualala Town Plan area.** Section 20.458.020 of the Coastal Zoning Code establishes regulations for ADUs in the Gualala Town Plan area. The regulations prohibit ADUs on parcels located west of SR 1 or on parcels where a guest cottage or detached bedroom exists. On parcels that are less than one-half acre in size, ADUs must be attached to the primary residence or established as a second story to a detached garage. There is a 960 SF cap for detached ADUs and a 500 SF cap for attached ADUs. ADUs may not be used for transient habitation of any kind and a deed restriction is required to that effect. The Gualala Town Plan establishes a 100-unit cap on ADUs. These existing requirements for ADUs in the Gualala Town Plan area will remain in place, however, the LCP amendment will modify the procedural requirements in Section 20.458.020 to establish Ministerial CDP approval procedures consistent with the requirements of Gov't Code §65852.2(a)(4).

### **III. ADU Development Standards**

In order to establish a Ministerial CDP process for ADUs which ensures compliance with LCP requirements, including protections for sensitive coastal resources, objective standards are required. The LCP amendment will establish the following review criteria for ADUs:

1. ADU must comply with requirements of underlying zoning district (setbacks, lot coverage, building height, etc.).
2. ADUs are not permitted on parcels with more than one dwelling unit (including farm employee housing, farm labor housing, temporary family care unit) or with more than one accessory living unit (guest cottage and/or detached bedroom).
3. ADUs are not permitted on parcels where a dwelling group or parcel clustering is approved.
4. ADUs must meet parking requirements in accordance with State ADU laws.
5. ADUs must meet floor area limitations. The LCP Amendment will incorporate the maximum floor area limitations per Gov't Code §65852.2 (i.e., 1,200 SF for a detached ADU; 50% of floor area or 1,200 SF-whichever is less- for a detached ADU; 500 SF for a JADU). This aligns with the standards for ADUs established in the County's Inland Zoning Code and provides for ADUs that are appropriately sized to accommodate families.
6. ADUs may only be permitted on parcels where Division of Environmental Health has verified adequate water availability.
7. ADUs may only be permitted on parcels where Division of Environmental Health has verified adequate sewage disposal system.
8. ADUs must be located at least 100 feet from an ESHA (or entirely within existing permitted structure). ADUs may be approved with a Standard CDP if located within 50-100' of an ESHA, based on the findings of a biological study.
9. ADUs must be located at least 125 feet from coastal bluff (or entirely within existing permitted structure). ADUs with a lesser setback may be approved with a Standard CDP based on findings of geotechnical investigation.
10. ADUs must be located outside of flood hazard area.
11. ADUs may only be permitted if the total amount of associated grading is less than 20 CY. ADUs requiring a greater amount of grading may be approved with a Standard CDP, based on a finding that the grading would not significantly alter natural landforms.
12. ADUs may only be permitted in Highly Scenic Areas, if they are not visible from a public road, beach, or recreation area. ADUs which are visible may be permitted with a Standard CDP based on a finding that the development is subordinate to the character of its setting and would not adversely impact scenic views to or along the coast.
13. ADUs may only be permitted on parcels zoned, AG, RL, FL or TPZ, if they are (a) clustered with existing development; (b) located on non-prime soils (AG; RL); and (c) do not require commercial tree removal (FL, TPZ).
14. ADUs may not interfere with public access to coast.
15. ADUs may only be permitted when CalFire and/or local Fire District, as applicable, has issued a preliminary clearance letter indicating that all fire safety requirements can be satisfied.

#### **IV. Restriction on use of ADUs as Vacation Home Rentals (VHRs)**

The LCP amendment includes a policy requiring that only one residence on a property with an ADU may be used as a Vacation Home Rental (VHR) and the VHR use will only be permitted if one of the residential units is the primary residence of the property owner. A deed restriction to this effect will be required. The intent of this provision is to ensure that the new ADU provisions will actually increase the availability of long-term rental housing as intended by the State legislation.

#### **V. Cap on number of ADU permits**

It is not clear whether the new ADU regulations will impact SR 1 capacity, as the correlation between development of ADUs and population growth and increased traffic volumes is unknown. For example, some ADUs may accommodate tenants who are currently in overcrowded and substandard rental units with no accompanying increase in population and traffic volumes. Further, by increasing the availability of rental housing stock and enabling workers to live closer to their places of employment, some ADUs may result in decreased vehicle miles travelled on SR 1. It is also the case that ADUs may accommodate population growth and result in increased traffic volumes.

In order to limit potential growth-inducing impacts related to ADUs, the LCP amendment establishes a 300-unit cap on the number of newly constructed ADUs. Junior Accessory Dwelling Units (JADUs) and conversion of existing accessory living units to ADUs are exempted from the cap. In addition, the cap will not apply to ADUs in the Gualala Town Plan area (which, as explained above, are subject to existing Gualala Town Plan requirements).

The LCP establishes a policy requiring preparation of an updated SR 1 capacity analysis prior to an application for a future LCP amendment to modify or remove the 300-unit cap on ADUs. The traffic analysis would identify impacts associated with projected future growth and would be used to evaluate whether or not further restrictions on ADU permits are needed.

**EXHIBIT 1: MENDOCINO COUNTY COASTAL ZONE**

