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November 1, 2019

Brent Schultz, Director
Julia Acker Krog, Chief Planner
Planning and Building Services
860 North Bush Street
Ukiah, CA 95482

RE: OA #2018-0009 – Accessory Dwelling Units LCP Amendment
Board of Supervisors November 5, 2019 Hearing Item #5d – Public Comment

Dear Brent & Julia,

Thank you for your diligence regarding this proposed amendment to the County's LCP to accommodate ADUs and JrADUs in our coastal zone.

There are many elements that I appreciate with regards to your proposed language. Besides the inclusion of the Coastal Development Ministerial Permit tool set, one of other my favorites is 20.458.050(B)(5) (Parking Requirements), where ADUs that are located within a designated historic district are exempt from the parking requirements of that section.

Takings:

As you know, I have been concerned that a request for an ADU or JrADU may not be able to pass a Regulatory Takings Analysis, should a proposal for same include development within an ESHA buffer or within an ESHA, should no other feasible alternative exist on the subject parcel.

When considering this, please keep in mind instances within which the following incidental development would be required to support the ADU/JrADU: increased septic capacity and/or replacement field; utility trenching (electrical, phone/cable, water, septic); walkways and/or driveway extension; exterior door landings/steps, and similar customary and necessary development.

Upon reviewing the existing and proposed LCP language, I believe, pursuant to the MCC sections below, that ADUs and JrADUs would be able to pass a Regulatory Takings analysis.

Expansion of Existing, Legally Authorized Development:

Please also state whether the expansion of existing, legally authorized incidental development and infrastructure (such as listed above) which does not meet setback requirements to ESHA would or would not be considered an expansion of a legal, non-conforming use, even if necessarily had to increase the non-conformity of the infrastructure.

So that we may be able to properly advise our clients and manage their expectations regarding feasibility and affordability of a potential request for an ADU/JrADU, I respectfully request that the Board confirm or repudiate the Takings interpretation and opine regarding the potential expansion of existing, legally authorized development that does not meet setbacks.

Please find the pertinent sections of the existing and proposed zoning ordinance on the following pages.

Thank you for your consideration.

All the best,

Amy Wynn, Principal Planner

Encl: n/a

CC: n/a

Principal Permitted Uses

Sec. 20.456.010 - Accessory Uses Encompassed by Principal Permitted Use.

- A. In addition to the principal permitted uses expressly included in the zoning districts **such use types shall be deemed to include such accessory uses which are specifically identified by these Accessory Use Regulations**; and such other accessory uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal permitted uses. When provided by these regulations, **it shall be the responsibility of the Director to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal permitted use**, based on the Director's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal permitted uses and the relationship between the proposed accessory use and the principal use. Accessory uses shall not include manufacturing, processing or transportation of flammable, explosive, toxic or other hazardous materials. Such determinations which are made by the Director may be appealed pursuant to the administrative appeal procedure commencing at Chapter 20.544.

Sec. 20.456.015 - Residential and Agricultural Use Types.

Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit, where applicable, **the following accessory buildings and uses shall be permitted in all zoning districts which allow a single-family residence:**

...

- (G) **Accessory Living Unit.** Not more than one accessory living unit guest cottage or detached bedroom may be permitted on for each legal parcel. An accessory dwelling unit and/or a junior accessory dwelling unit may also be permitted, subject to the limitations established in Chapter 20.458.
- (O) Other Necessary and Customary Uses. Accessory non-residential uses and non-residential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use, as determined by the Director of Planning and Building Services.

Section 20.458.015 - Permit.

Accessory dwelling units or junior accessory dwelling units may be permitted in any zone that allows residential uses. Accessory dwelling units or junior accessory dwelling units may be permitted in accordance with one of the following determinations:

- (A) Determined to be exempt from the requirement to obtain a coastal development permit pursuant to Section 20.532.020; or
- (B) Determined to meet the criteria for a coastal development ministerial permit pursuant to Section 20.532.015(B); or
- (C) Determined to require a coastal development permit pursuant to Section 20.532.015 (A) or (E).

Specific Standards for ADUs

Section 20.458.025 - Specific Standards for Accessory Dwelling Units.

ADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, an ADU shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit, but not including a JADU) is located on the parcel, or if there currently exists more than one guest cottage or detached bedroom on the parcel.

(B) ADUs shall conform to height, setback, lot coverage, site plan review, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the ADU is located with the following exception:

(1) An existing legally-authorized garage which does not meet setback requirements may be converted to an ADU and would not be considered an expansion of a legal, non-conforming use unless the conversion increases the non-conformity of the structure.