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9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF ORANGE COUNTY

11 STEVEN REINECKE and KAREN REINECKE,
12 Petitioners and Plaintiffs,
13 v.
14 CITY OF LAGUNA BEACH,
15 Respondent and Defendant,
16 CALIFORNIA COASTAL COMMISSION,
17 Real Party in Interest.

No. 30-2025-01453838-CU-WM-WJC

**VERIFIED PETITION FOR WRIT
OF MANDATE (CCP § 1085)
AND COMPLAINT FOR
DECLARATORY RELIEF**

Assigned for All Purposes
Judge Sheila Recio

18
19 **INTRODUCTION**

20 California faces a severe housing crisis with significant consequences for the State’s
21 economy, its environmental goals with respect to greenhouse gas emissions, and the welfare of its
22 citizens. Cal. Gov’t Code § 66310.¹ To address these concerns, the legislature has established state
23 accessory dwelling unit (ADU) law, including a mandatory framework for owners of existing
24 residential properties to obtain by-right development permits to construct accessory dwelling units
25 (ADUs). *Id.* §§ 66310–66403. Plaintiffs and Petitioners Steve and Karen Reinecke seek to take part
26 in this statewide effort to combat California’s housing shortage and to help provide an “essential

27
28 ¹ Throughout this brief, all references to the Government Code or Public Resources Code shall be to the California Government Code or California Public Resources Code, respectively.

1 component” of the state’s housing supply by constructing an ADU attached to their Laguna Beach
2 Residence. *See id.* § 66310(h).

3 In practice, this policy has often been stymied by the operation of the California Coastal
4 Act. Yet in many cases, as in this one, there need not be any tension between the essential policies
5 of ADU development and protection of the state’s coastal resources. After all, just as the state ADU
6 law is not intended to lessen the effect of the Coastal Act, Gov’t Code § 66329, neither does the
7 Coastal Act exempt local governments from complying with state housing obligations. Pub. Res.
8 Code § 30007. Meanwhile, the Governor recently signed SB 1077, calling on the Commission to
9 more closely coordinate with the Department of Housing and Community Development in aligning
10 their respective goals to “simplify the permitting process” for ADUs in the Coastal Zone. SB 1077
11 (2023-2024) (codified at Pub. Res. Code § 30500.5).

12 This case represents low-hanging fruit because the Reineckes’ ADU project is already
13 covered by Exclusion Order E-93-1 (the Order), which exempts it from coastal permitting
14 requirements. And indeed, prior to the Reineckes’ application, Laguna Beach had a policy of
15 processing similar ADUs under the Order. However, apparently beginning with the Reineckes’
16 application, the Commission stepped in to advise that the Order does not cover ADUs at all. That
17 decision forms the basis of this lawsuit.

18 The Reineckes’ project is known to have no negative impact on coastal resources. That is
19 unsurprising, because it is part of a category of development that the Commission already
20 determined poses no risk of adverse effect on the coast. In this case, the aims of state housing policy
21 and coastal resource protection are not in conflict. The Reineckes therefore seek judicial
22 intervention to enforce their rights and give effect to an essential component of California’s housing
23 policy.

24 **PARTIES**

25 **Petitioners**

26 1. Plaintiffs and Petitioners Steven and Karen Reinecke (the Reineckes) own
27 residential property in Laguna Beach, California. On July 25, 2023, they filed an application with
28

1 the City of Laguna Beach seeking permission to construct a small accessory dwelling unit (ADU)
2 attached to their residence.

3 **Respondents**

4 2. Defendant Respondent City of Laguna Beach is a political subdivision of the state
5 of California located within Orange County. It is the primary permitting authority for all land use
6 developments within its jurisdiction. Under the Coastal Act, Laguna Beach has had the primary
7 permitting authority for all Coastal Development Permits since the California Coastal Commission
8 certified the City's Local Coastal Program in 1993. Pursuant to Laguna Beach Muni. Code (LBMC)
9 § 25.07.010, it administers Exclusion Order E-93-1 as part of its Local Coastal Program.

10 3. Real Party in Interest California Coastal Commission (Commission) is a state
11 administrative body operating under the California Coastal Act, Pub. Res. Code § 30000, *et seq.*
12 The Commission is tasked with certifying proposed Local Coastal Program amendments as
13 consistent with the Coastal Act. As authorized by Pub. Res. Code § 30610(e), it adopted Exclusion
14 Order E-93-1.

15 **JURISDICTION AND VENUE**

16 4. The Court has jurisdiction of this petition for writ of mandate pursuant to Code of
17 Civ. Proc. § 1085 and Gov't Code § 65009.

18 5. The Court has jurisdiction of this complaint for declaratory relief under Code of Civ.
19 Proc. § 1060.

20 6. Venue is proper in the Superior Court for the County of Orange under Code Civ.
21 Proc. §§ 393–95, in that the City is located in Orange County, and enforcement of the Order will
22 occur in Orange County.

23 **APPLICABLE LAW**

24 **The California Coastal Act**

25 7. The California Coastal Act, Pub. Res. Code § 30000, *et seq.*, requires local
26 governments with jurisdiction over Coastal Zone lands to adopt a Local Coastal Program (LCP),
27 which in turn must be certified by the California Coastal Commission. Pub. Res. Code § 30500. An
28 LCP typically has two parts: a Land Use Plan (LUP), and a Local Implementation Plan (LIP). The

1 LUP is a general policy document that sets forth policies for coastal development and has the force
2 of law. The LIP is the collection of implementing ordinances that carry out LUP policies. Both the
3 LUP and the LIP—together, the LCP—must be consistent with the Coastal Act.

4 8. Chapter 7 of the Coastal Act provides that, with certain exceptions, “any person . . .
5 wishing to perform or undertake any development in the coastal zone . . . shall obtain a coastal
6 development permit.” Pub. Res. Code § 30600(a).

7 9. Chapter 7 contains two exceptions to this requirement that are relevant here. It
8 provides that “[n]otwithstanding any other provision of [the Coastal Act], no coastal development
9 [(CDP)] permit shall be required pursuant to this chapter” for development meeting these
10 exceptions. Pub. Res. Code § 30610.

11 10. The first relevant exception applies to “[i]mprovements to existing single-family
12 residences[.]” *Id.* § 30610(a). Pursuant to Coastal Commission regulations, this includes “[a]ll
13 fixtures and structures directly attached to the residence,” such as attached ADUs. Cal. Code Regs.
14 tit. 14, § 13250; *See Riddick v. Malibu* (2024) 99 Cal. App. 5th 956, 972 (“Under the Coastal
15 Commission definition, directly attached structures, including ADUs, are exempted from the types
16 of development that require CDPs under the Coastal Act.”).

17 11. The second relevant exception applies to any “category of development within a
18 specifically defined geographic area” that the Commission, “after public hearing, and by two-thirds
19 vote of its appointed members, has described or identified and with respect to which the
20 commission has found that there is no potential for any significant adverse effect, either individually
21 or cumulatively, on coastal resources[.]” In other words, this exception applies to categories of
22 development covered by an Exclusion Order.

23 12. Once an LCP for a given area is certified, “the development review authority
24 provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the
25 commission over any new development proposed within the area to which the certified [LCP] . . .
26 applies and shall at that time be delegated to the local government that is implementing the [LCP].”
27 Pub. Res. Code § 30519(a).

1 **The LCP and the Exclusion Order**

2 13. Laguna Beach’s LCP was certified by the Commission on January 13, 1993.

3 14. The LCP includes the entirety of Chapter 25 of the City’s municipal code.

4 15. The Commission approved Exclusion Order E-93-1 on May 13, 1993. Subsequent
5 to the City’s acknowledgment of the Order on November 9, 1993 and the submission of all
6 necessary materials, the Order became effective on April 28, 1994.

7 16. Reflecting Pub. Res. Code § 30610(a), Laguna Beach’s LCP contains a CDP
8 exemption for improvements to single-family dwellings. However, despite the Commission
9 regulation interpreting improvements to include all attached fixtures and structures, and despite the
10 Coastal Act’s command that “[n]otwithstanding any other provision of [the Coastal Act], no coastal
11 development permit shall be required for . . . [i]mprovements to single-family dwellings,” Laguna
12 Beach’s LCP specifically withholds the exemption from “[g]uest-houses and self-contained
13 accessory dwelling units[,]” unless they are created by converting habitable space within an existing
14 dwelling. LBMC § 25.07.008.

15 17. Reflecting Pub. Res. Code § 30610(e), Laguna Beach’s LCP excludes from the CDP
16 requirement “[d]evelopment included in any categorical exclusion area adopted pursuant to the
17 California Coastal Act.” LBMC § 25.07.010.

18 18. Reflecting both of these provisions, Laguna Beach’s LCP provides that “ADUs that
19 are not exempted or excluded under Chapter 25.07 . . . require issuance of a coastal development
20 permit[.]”

21 19. Exclusion Order E-93-1 provides that, within certain geographical areas, “[s]ingle
22 family residential development” is excluded from the need to obtain a CDP. The term “single family
23 residential development” is not defined within the Order.

24 **Administrative Review Procedures**

25 20. Interpretations of Order E-93-1 are subject to two separate review procedures: a
26 municipal procedure provided in LBMC § 25.07.012(B), and a state regulatory procedure provided
27 in Cal. Code Regs. tit. 14, §§ 13245 and 13231.

28 21. These two procedures, while similar, are ultimately distinct.

1 22. Under the municipal procedure, an initial determination must be made by the City,
2 which then informs Commission staff. LBMC § 25.07.012(B). The Commission’s executive
3 director may then review the determination, either independently or at the request of an interested
4 person. *Id.* If the executive director’s determination is the same as the City’s, “then that
5 determination shall apply” and “there is no further challenge available.” *Id.* If the executive
6 director’s determination conflicts with the local government’s determination, and the respective
7 staffs are not able to reach agreement, then the Commission must hold a hearing to resolve the
8 dispute. *Id.*

9 23. Under the state regulatory procedure, any person may request an interpretation of
10 an exclusion order directly from the Commission’s executive director. Cal. Code Regs. tit. 14,
11 §§ 13245, 13231. The executive director must then make a determination, which is automatically
12 reviewed by the Commission at a regularly scheduled meeting. *Id.* § 13231. At the meeting, three
13 members of the Commission may request further review, in which case the Commission makes an
14 interpretation by majority vote. Otherwise, the executive director’s determination becomes final.

15 24. In other words, the Commission itself does not become involved under the
16 municipal procedure unless the executive director and the City disagree; by contrast, an initial layer
17 of review by the Commission is automatic under the state regulatory procedure.

18 25. Furthermore, while Commission review under the state regulatory procedure is held
19 at a regularly scheduled meeting with no special rules, Commission review under the municipal
20 procedure is subject to the rule that “[o]nly the local government, the applicant, and the interested
21 person(s), if any, who made the request for review may testify at the hearing,” though any person
22 can submit written comments. LBMC § 25.07.012(B)(4).

23 **Laguna Beach’s ADU zoning regulations**

24 26. Pursuant to Gov’t Code § 66314, the City has adopted an ordinance establishing
25 procedures for the development of ADUs. The ordinance is located at LBMC Chapter 25.17. A
26 copy of the relevant portions of LBMC Chapter 25.17, as available online and linked to from the
27 City’s website, is attached as **Exhibit A**.

1 27. Under LBMC § 25.17.040(D), ADUs meeting certain criteria qualify for
2 “guaranteed allowance.” Such ADUs must only meet the design criteria listed in that subdivision
3 (D), and no other development standards, with the exception of “[c]oastal resource protection
4 policies,” can apply.

5 28. Under subdivision (D)(1) and (D)(4), an ADU attached to an existing single-family
6 home qualifies for a guaranteed allowance if it is less than or equal to 850 square feet in length,
7 enjoys at least four-foot setbacks on the side and rear yards, and is less than 25 feet in height or
8 within the zoning code height limitation applicable to the primary dwelling, whichever is lower.

9 29. Under LBMC § 25.17.040(C), assuming a “guaranteed allowance” ADU is either
10 “exempted” or “excluded” from the City’s CDP permitting requirement, it must be ministerially
11 approved within 60 days from the date it receives a completed application.

12 **FACTUAL ALLEGATIONS**

13 **The Proposed ADU**

14 30. On July 25, 2023, Steve and Karen Reinecke submitted plans to create an 810 square
15 foot ADU attached to their one-story home at 1673 Louise Street in Laguna Beach, California.

16 31. The proposed ADU would consist of a second story above the main living space,
17 reaching a total height of 20 feet and five inches, which is less than the 25 foot maximum allowed
18 by their zoning designation.

19 32. Several other homes on the Reineckes’ block already have second stories, including
20 the two homes to their north and the two homes directly across the street to their east.

21 33. Their property is located within a mapped categorical exclusion zone covered by
22 Exclusion Order E-93-1.

23 **Initial Application of the Order**

24 34. The City initially informed the Reineckes that their proposed ADU would require a
25 coastal development permit (CDP).

26 35. However, the Reineckes’ architect, Warren Hutcherson, found information on the
27 City’s website indicating that ADU projects located within a mapped categorical exclusion area are
28 exempt from the need to obtain a CDP. That information was contained within the February, 2024

1 update to the City’s “ADU Quick Guide.” A true and correct copy of the February, 2024 update is
2 attached as **Exhibit B**.

3 36. On April 4, 2024, Mr. Hutcherson contacted Amber Dobson, then a planning
4 manager with the City, to confirm that the CDP exclusion applied to the Reineckes’ project.

5 37. On April 8, 2024, Ms. Dobson replied in the affirmative. She further observed that
6 the “assessment done by staff determined that there was no public view impact anyway,” and
7 indicated that city staff would provide stamped approved plans. A true and correct copy of this
8 email correspondence is attached as **Exhibit C**.

9 **The Commission’s “Rejection” and the City’s Acquiescence**

10 38. However, on May 20, 2024, Associate Planner Daniel Latham emailed
11 Mr. Hutcherson that “[t]he exclusion for the Louise [Street] ADU was rejected by Coastal and we
12 will be sending the notice today for the CDP.” A true and correct copy of this email correspondence
13 is attached as **Exhibit D**.

14 39. Through a public records request to the City, the Reineckes received copies of the
15 email correspondence in which Commission staff had “rejected” the application of the Order. A
16 true and correct copy of the public records provided by the City is attached as **Exhibit E**.

17 40. In these emails, dated April 22–May 2, 2024, Ms. Dobson wrote to Commission
18 staffer Meg Vaughn that “We [the City] have been processing development under the CatEx [the
19 Order] for single family residential . . . and will continue to do so unless we hear differently from
20 you. We are processing ADUs consistent with the Single Family residential criteria as outlined.
21 There is a particularly controversial ADU that we are going to process this week and the residents
22 in the area have objected to the second story ADU, although it does not present any conflicts with
23 coastal resources.”

24 41. On information and belief, the “controversial ADU” referenced by Ms. Dobson
25 referred to the Reineckes’ proposed ADU project.

26 42. Ms. Vaughn responded that the Order “excludes from coastal development permit
27 requirements single family residential development The Order does not exclude the addition
28

1 of Accessory Dwelling Units (ADUs) to existing single family residences. Therefore, the subject
2 project . . . does not qualify for a categorical exclusion.”

3 43. Ms. Dobson pushed back, arguing that language in the City’s LCP seemed to
4 contemplate that some ADUs are covered by the Order. In particular, LBMC § 25.17.030(B)(1)
5 provides that “ADUs that are not exempted or excluded under Chapter 25.07 require issuance of a
6 coastal development permit[.]”

7 44. The term “excluded” in this provision appears to be a reference to LBMC
8 § 25.07.010, titled “Categorical exclusions,” which refers to “[d]evelopment included in any
9 categorical exclusion area adopted pursuant to the California Coastal Act[.]”

10 45. Ms. Dobson further wrote that the Order “was certified by the Commission and it
11 was found that the category of development (Single family residential) in the approved Cat Ex areas
12 has no potential for any significant adverse effect, either individually or cumulatively, on coastal
13 resources. Therefore, it follows that the development of ADUs also does not have any significant
14 adverse effects on coastal resources (with ADUs being defined as accessory to the primary unit and
15 are fundamentally part of a single family residential development according to HCD, or in other
16 words, development of the ADU does not cause a single family to be re-classified as a duplex). The
17 ministerial ADUs are required to conform to [Muni. Code §] 25.17 which includes protection of
18 coastal resources: watercourse and blufftop setbacks, and replacement parking, all required outside
19 of the context of a CDP, among other things. Because these requirements apply outside of a CDP
20 and apply to all ministerially approved ADUs, we believe that adequate protection of coastal
21 resources is provided under the Cat Ex order.”

22 46. Ms. Vaughn replied that the LCP section cited by Ms. Dobson “means that the City
23 is not precluded from requesting an amendment to the current cat ex or from requesting a new cat
24 ex to exclude ADUs,” and that the question of “whether or not ADUs as a cat ex development
25 category would have potentially significant adverse effect must be determined via review of a
26 categorical exclusion request by the Coastal Commission. The City’s approved categorical
27 exclusion order does not include ADUs and so ADUs cannot be excluded under the approved cat
28 ex.”

1 47. Through subsequent communications with the City, including emails with City
2 Manager Dave Kiff and a meeting with City Attorney Jane Abzug, the City informed the Reineckes
3 that the “Commission has taken the position that the Commission-issued Exclusionary Order does
4 *not* apply to accessory dwelling units. . . . As a result, the City must require a Coastal Development
5 Permit” for the Reinecke ADU.

6 48. At the meeting, the City offered to process the Reineckes’ application under a
7 “public hearing waiver for minor development” under LBMC § 25.07.013. This procedure is
8 available only where the Director of Community Development determines that the proposed
9 development is consistent with the LCP, requires no discretionary approvals other than a CDP, and
10 has no adverse effect either individually or cumulatively on coastal resources.

11 49. However, the minor-development waiver procedure may be overridden by the
12 request of any person entitled to notice thereof, including “all persons who have requested such
13 notice” and to “all property owners within three hundred feet of the proposed project, to all residents
14 within one hundred feet of the proposed project and to the coastal commission.” If a single request
15 for a hearing is received, the waiver is ineffective and the project is scheduled for a full public
16 hearing. LBMC §§ 25.07.013–.014.

17 50. Through their counsel, the Reineckes submitted a letter to the City on July 10, 2024,
18 making several arguments why their ADU should be excluded under the Order or otherwise exempt
19 from obtaining a CDP, and urging the City to approve the project without a CDP. A true and correct
20 copy of this letter is attached as **Exhibit F**.

21 51. In particular, they argued that the term “single family residential development” in
22 the Order should be interpreted in light of the Coastal Commission regulations providing that “all
23 attached fixtures and structures” constitute part of a single-family dwelling; that Coastal Act’s
24 exemption for improvements to single-family residences, including all attached fixtures and
25 structures, is a mandatory exemption that cannot be overridden by the terms of an LCP; and that
26 the Commission’s interpretation of the Order is not binding on the City.

27 52. The letter also observed that “the City approved many other additions to existing
28 single-family dwellings, including attached ADUs, under the exclusion order within the last year.”

1 53. On August 8, 2024, the City Attorney responded to the Reineckes’ letter. The
2 response explained that the “City is following the Coastal Commission’s interpretation of its
3 Exclusionary Order,” and provided arguments that the Coastal Act’s exemption for improvements
4 to single-family residences did not apply where the City’s LCP contained a narrower exemption. A
5 true and correct copy of this response is attached as **Exhibit G**.

6 54. Regarding the Reineckes’ observation of “other cases for which the City relied upon
7 the Exclusionary Order for ADUs[.]” the response averred that the “City acknowledges that it
8 misapplied the Exclusionary Order; however, the City immediately took corrective action upon
9 learning the Coastal Commission’s position[.]”

10 55. The response indicated that “under the City’s certified LCP,” the Reineckes “may
11 seek review of the City’s determination independently by the Coastal Commission’s Executive
12 Director,” citing LBMC § 25.07.012.

13 **Initial Administrative Review**

14 56. On September 6, 2024, by a letter to Executive Director Dr. Kate Huckelbridge, the
15 Reineckes sought review of the Order’s interpretation from the Commission under LBMC
16 § 25.07.012 (the municipal procedure) as well as under Cal. Code Regs. tit. 14, § 13245 (the state
17 regulatory procedure). A true and correct copy of this letter is attached as **Exhibit H**.

18 57. On October 17, 2024, the Reineckes received a response from South Coast District
19 Manager Amrita Spencer, ostensibly representing the executive director’s formal determination.
20 The determination concluded that the Reineckes’ project was not covered by the Order. A true and
21 correct copy of this response is attached as **Exhibit I**.

22 58. The determination made two primary arguments.

23 59. First, it argued that the term “single family residential development” in the Order is
24 not equivalent to the term “single-family residence” used in Pub. Res. Code § 30610(a) and Cal.
25 Code Regs. tit. 14, § 13250. Therefore, “it is inappropriate to extrapolate the meaning of [Section
26 13250] to the Categorical Exclusion Order.”

27 60. Second, it argued that ADUs were not covered under the Order by operation of the
28 Order’s Special Condition No. 9. Condition No. 9 provides that if the City’s LCP is amended, then

1 “development under this order shall comply with the amended LCP except where the terms and
2 conditions of this order specify more restrictive criteria.”

3 61. In regards to this argument, Ms. Spencer pointed to the City’s LCP provision at
4 LBMC § 25.07.008 exempting improvements to single-family dwellings from the CDP
5 requirement. By the terms of this provision, the exemption for improvements to single-family
6 dwellings does not cover “[g]uest houses and self-contained accessory dwelling units[.]” Therefore,
7 according to Ms. Spencer, “the LCP is more restrictive, and not less restrictive, than [the Order], as
8 to what types of development relating to single family residences are exempt. Therefore, the LCP
9 exemptions apply and should be analyzed in determining whether the proposed project is exempt
10 or not as required by” Condition No. 9 of the Order.

11 62. The determination further argued that the Coastal Act’s exemption for
12 improvements to single-family dwellings did not apply in the face of the LCP’s narrower analogous
13 exemption, citing *Citizens for South Bay Coastal Access v. City of San Diego* (2020) 45 Cal. App.
14 5th 295.

15 63. By email, Ms. Spencer indicated that under the statewide regulatory procedure, the
16 determination could be brought before the Commission at its next meeting, but under the municipal
17 procedure, the determination must first be discussed with the City to ascertain whether the
18 executive director and the City were in agreement.

19 64. The Reineckes’ counsel responded that the City had already changed its position to
20 conform to Commission staffs’ interpretation, that agreement was apparent, and that the municipal
21 procedure had therefore concluded.

22 65. Commissions staff agreed, and scheduled the matter for a hearing at the Coastal
23 Commission’s November 15 meeting.

24 **Coastal Commission Hearing**

25 66. The initial staff report for the Commission hearing repeated much of the same
26 argumentation present in the determination communicated by Ms. Spencer. A true and correct copy
27 of the staff report is attached as **Exhibit J**.

1 67. The Reineckes submitted written comments responding to the staff report. A true
2 and correct copy of the Reineckes’ written comments, omitting exhibits, is attached as **Exhibit K**.

3 68. In particular, the Reineckes argued that (1) the Reineckes’ project is consistent with
4 the City’s LCP and will have no adverse impact on coastal resources; (2) the project is covered by
5 Exclusion Order E-93-1; (3) the Order has been interpreted to exempt similar ADU projects in the
6 past; (4) Commission staff’s arguments based on Condition No. 9 of the Order and on LBMC
7 § 25.07.08 are unpersuasive; (5) the Coastal Act itself prohibits requiring a CDP for attached ADUs,
8 and; (6) the Commission is without jurisdiction to override the City’s initial application of the
9 Order.

10 69. Chris Pederson, former chief counsel to the Commission, also submitted written
11 comments advocating for the Reineckes. His written comments made similar arguments to those of
12 the Reineckes. A true and correct copy of Mr. Pederson’s comments are attached as **Exhibit L**.

13 70. In response to these written comments, Commission staff issued an addendum to its
14 report. In its addendum, Commission staff abandoned its argument under Condition No. 9 of the
15 Order and LBMC § 25.07.08. However, it did argue that Condition No. 9 nevertheless “evidence
16 the intent that the Order be applied in a manner most protective of coastal resources.” A true and
17 correct copy of the addendum is attached as **Exhibit M**.

18 71. The primary argument in the addendum was that “the plain language of ‘single
19 family residential development’ does not support the inclusion of an ADU. An ADU is necessarily
20 dependent upon another structure, and, in this case, is an additional dwelling unit that is an
21 accessory to a single-family residence.” Furthermore, it asserted that the “Executive Director is not
22 aware of any definition where a single-family residential development includes the construction of
23 an ADU as a single-family residence.”

24 72. The addendum also disclaimed any notion that it had overruled the City’s
25 interpretation or application of the Order. Instead, “[s]taff shared their interpretation of the Order,
26 at which point the City voluntarily changed its position.”

27 73. The addendum further represented that “the City’s determination on the Reineckes’
28 project is not being reviewed and is not the subject of” the November 15 hearing.

1 74. Both the Reineckes’ counsel and Mr. Pederson gave spoken comments at the
2 hearing. The Reineckes’ counsel was given three minutes to present. A video recording of the
3 hearing is available at cal-span.org/meeting/ccc_20241115, beginning at approximately two hours
4 into the video.

5 75. In his spoken comments, Mr. Pederson stated that “[t]he interpretation that staff now
6 proposes in the addendum is quite different from the interpretation in the original staff report. Both
7 reach the same conclusion—that ADUs in certain already-developed areas require a CDP even
8 when they raise no significant Coastal Act concerns. That would be the case even though other,
9 much larger detached residences in the same areas do not require a CDP. This makes no sense.”

10 76. Commission Chair Cheryl Hart asked whether the ADU could be approved with a
11 waiver. An attorney for the Commission responded that “the City has already told this particular
12 applicant that it is subject to an expedited process[.]” She did not mention that the minor
13 development hearing waiver offered by the City could be overridden by the request of a single
14 person entitled to receive notice thereof, including any property owners or residents within 100 feet
15 of the Reineckes’ property.

16 77. Commissioner Ann Notthoff stated her desire for the Commission to facilitate ADU
17 development, and asked whether the hearing provided an opportunity to make it easier to build
18 ADUs. The Commission’s attorney again stated that “the City has a process to make it easier
19 through waivers[.]”

20 78. Commissioner Mike Wilson expressed that he “appreciate[s] the applicant and their
21 advocates coming today to raise this issue,” but felt that “we may not be able to do it in this nexus,”
22 stating that “we have work to do[.]”

23 79. Ultimately, no commissioners voted for further review of the executive director’s
24 determination. Instead, the Commission adopted staff’s recommendation and concurred with the
25 executive director’s determination.

26 80. Following the hearing, the Reineckes contacted the City to point out that the
27 Commission had disclaimed any notion that the Commission had overruled the City with respect
28

1 to the application of the Order, and invited the City to adopt its original determination that the
2 Reineckes' project was excluded under the Order.

3 81. Counsel for the City explained that the "City is going to rely on its determination,
4 consistent with the Coastal Commission's interpretation that the exclusionary order does not apply
5 to ADUs."

6 **Past Applications of the Order and Public Records Requests**

7 82. In their September 6, 2024 request for administrative review, the Reineckes cited
8 several similar projects that had apparently been processed under the Order.

9 83. In her response, Ms. Spencer indicated that "[w]e have not found any record of
10 notice required under Cal. Code Regs. tit. 14, § 13248 for any of the properties you provided."

11 84. This statement was a surprise, because it seemed to contradict the City's earlier
12 statement that "it acknowledges that it misapplied the Exclusionary Order" in the past.

13 85. The Reineckes have submitted a series of public records requests to the City to
14 obtain more information about these past projects, including copies of notices sent by the City to
15 the Commission pursuant to Cal. Code Regs. tit. 14, § 13248 and/or LBMC § 25.07.010.

16 86. As of the date of this petition, none of the records produced by the City include such
17 notices.

18 87. The Reineckes also submitted a public records request to the Commission, seeking
19 copies of all notices sent to the Commission City pursuant to Cal. Code Regs. tit. 14, § 13248,
20 dating back to January, 2020. The only records produced by the Commission were those relating to
21 the Reineckes' project.

22 88. Nevertheless, it "is presumed that official duty has been regularly performed," Cal.
23 Evid. Code § 664, and on that basis it is alleged that the Commission received notice that the City
24 was processing similar ADUs under the Order.

25 89. On information and belief, the City processed ADU projects under the Order at the
26 following properties located within the City and others:

27 a. 483 Jasmine Street

28 b. 478 Locust Street

- c. 950 Baja Street
- d. 1101 Miramar Street
- e. 900 Hillcrest Drive

Documentation relating to these projects is attached as **Exhibit N**.

FIRST CAUSE OF ACTION FOR TRADITIONAL WRIT OF MANDATE
(Code Civ. Proc. § 1085)

90. All of the allegations set forth by paragraphs 1 through 89 are alleged and incorporated herein as if set forth by reference.

91. Respondent City of Laguna Beach has made a final determination that the Reineckes' ADU requires a CDP.

92. Exclusion Order E-93-1 excludes single-family residential development on the Reineckes' property from the need to obtain a CDP.

93. The Reineckes' proposal is for single-family residential development.

94. The Order was adopted pursuant to Pub. Res. Code § 30610(e).

95. Under Cal. Code Regs. tit. 14, § 13250, where there is a single-family residential building, “[a]ll fixtures and structures directly attached to a residence” are “considered a part of that structure[.]” This includes attached ADUs like the one proposed by the Reineckes.

96. Cal. Code Regs. tit. 14, § 13250 interprets Pub. Res. Code § 30610(a). Both subdivisions (a) and (e) of Pub. Res. Code § 30610 set out categories of development for which “no coastal development permit shall be required” because the development does not involve a risk, or a potential risk, of adverse environmental effect.

97. Under the interpretive canon of *in pari materia*, regulations concerning the same subject matter should be construed together.

98. Both the Order and Cal. Code Regs. tit. 14, § 13250 were issued by the same agency—the Commission.

99. The best reading of the term “single family residential development” in the Order, therefore, is one which is consistent with the use of the nearly identical term in Commission

1 regulations, i.e., one which considers attached ADUs to be “part of” a single-family residential
2 building.

3 100. This interpretation is affirmed by other sources of law. For example, the Government
4 Code provides that ADUs may be built in any zone that allows single-family residential use. Gov’t
5 Code § 66314. It further provides that ADUs in a single-family zone “do not exceed the allowable
6 density for the lot upon which the [ADU] is located, and that [ADUs] are a residential use that is
7 consistent with the existing general plan and zoning designation for the lot.” *Id.* § 66314(c).

8 101. Even without the Order, Laguna Beach is prohibited from requiring a CDP for the
9 Reineckes’ attached ADU.

10 102. The Coastal Act at Pub. Res. Code § 30610(a) provides that, “[n]otwithstanding any
11 other provision of” the Act, “no coastal development permit shall be required pursuant to [Chapter
12 7 of the Act] for,” *inter alia*, “[i]mprovements to existing single-family residences.” Section
13 30610(a) also commands the Commission to “specify, by regulation, those classes of development
14 which involve a risk of adverse environmental effect and shall require that a coastal development
15 permit be obtained[.]”

16 103. Following this statutory directive, the Commission issued regulations interpreting
17 Section 30610(a). In doing so, it provided that where there is an existing single-family residential
18 building, “[a]ll fixtures and structures directly attached to a residence” shall “be considered a part
19 of that structure[.]”

20 104. As the Court of Appeal recently affirmed, “[u]nder the Coastal Commission
21 definition, directly attached structures, including ADUs, are exempted from the types of
22 developments that require CDPs” because they are “improvements to existing single-family
23 residences.” *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 971–72.

24 105. Under LBMC § 25.17.040(D)(1), the Reineckes’ ADU qualifies for a guaranteed
25 allowance because it is an attached ADU less than 850 square feet in floor area, enjoying more than
26 four-foot setbacks on the side and rear yards, and is less than 25 feet, which is also the zoning code
27 height limitation applicable to the property.

1 106. Because a CDP is not required, only the design standards in LBMC § 25.17.040(D)
2 apply, and no other design standards apply.

3 107. Therefore, under LBMC § 25.17.040(C), the City has a clear, present, and
4 ministerial duty not to require a CDP for the Reineckes' project. It further has a clear, present, and
5 ministerial duty to approve the Reineckes' project within 60 days from the date the City received or
6 receives a completed application. The Reineckes have a beneficial right to the performances of
7 these duties.

8 **SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF**

9 **(Code Civ. Proc. § 1060)**

10 108. All of the allegations set forth by paragraphs 1 through 89 are alleged and
11 incorporated as if set forth fully herein.

12 109. If the Reineckes' project is not required to obtain a coastal development permit, then
13 the City must ministerially approve the project pursuant to LBMC § 25.17.040 and Gov't Code
14 § 66317.

15 110. For the reasons outlined in the First Cause of Action, the Reineckes' project is
16 exempt from the requirement to obtain a coastal development permit under both Categorical
17 Exclusion Order E-93-1 and under the Coastal Act.

18 111. There is an actual and justiciable controversy in this case as to whether the
19 Reineckes are required by law to obtain a coastal development permit for their attached ADU. The
20 Reineckes allege that their project is exempt from such requirement. The City has made a final
21 determination that the project is subject to such a requirement.

22 112. A declaratory judgment as to whether the Reineckes' proposal for an attached ADU
23 is exempt from the requirement to obtain a coastal development permit will resolve the controversy
24 among the parties.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioners request relief as follows:

3 1. A writ of traditional mandate compelling the City to ministerially approve the
4 Reineckes' ADU project as required under LBMC § 25.17.040 and Gov't Code § 66317;

5 2. A declaration pursuant to Code of Civil Procedure Section 1060 that:

6 a. Attached ADUs constitute "single-family residential development" for purposes of
7 Categorical Exclusion Order E-93-1 and Pub. Res. Code § 30610(a)

8 b. Attached ADUs in Laguna Beach that satisfy the design standards of LBMC
9 § 25.17.040(D) must be ministerially approved pursuant to LBMC § 25.17.040(C)
10 and Gov't Code § 66317; and

11 3. For such other and further relief as the Court may deem proper.

12 DATED: January 14, 2025.

13 Respectfully submitted,

14 /s/ David J. Deerson

15 DAVID J. DEERSON

16 *Attorney for Petitioners and Plaintiffs*

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VERIFICATION

I, Steven Reinecke, declare:

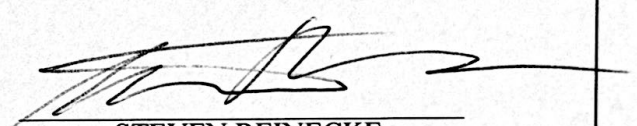
1. I am a Petitioner and Plaintiff in the above-entitled matter.

2. I have read the foregoing Verified Petition for Writ of Mandate (CCP § 1085) and Complaint for Declaratory Relief and know the contents thereof.

3. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 14, 2025, at Orange County, California.



STEVEN REINECKE

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VERIFICATION

I, Karen Reinecke, declare:

1. I am a Petitioner and Plaintiff in the above-entitled matter.

2. I have read the foregoing Verified Petition for Writ of Mandate (CCP § 1085) and Complaint for Declaratory Relief and know the contents thereof.

3. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 14, 2025, at Orange County, California.


KAREN REINECKE

Exhibit A

City of Laguna Beach, CA
Monday, December 23, 2024

Title 25. Zoning

Chapter 25.17. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

§ 25.17.020. Definitions.

"Accessory dwelling unit" (ADU) means an attached, a detached, or converted dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single- or multi-family dwelling is or will be situated. An ADU also includes the following: an efficiency unit as defined in Section 17958.1 of the **Health and Safety Code** and a manufactured home as defined in Section 18007 of the **Health and Safety Code**. Accessory dwelling units may be attached to the primary dwelling unit, detached from the primary dwelling unit or may involve the conversion of floor area of an existing structure.

"ADU ordinance" means Chapter **25.17** and all objective standards applicable to ADUs contained in Title **25**.

"Attached ADU" means an ADU that is constructed as a physical expansion of the primary dwelling unit and is attached to the primary dwelling unit.

"Converted ADU" means an ADU that is constructed within the walls of the primary dwelling unit or an existing detached structure, including conversion of an existing attached or detached garage into an ADU.

"Detached ADU" means an ADU that is within an independent structure entirely separate from the primary dwelling unit and other accessory structures.

"Junior accessory dwelling unit" (JADU) means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. The JADU shall include a separate entrance from the main dwelling.

"Primary dwelling" means an existing or proposed residential structure and includes both livable and non-livable areas. Detached structures, such as a detached garage is not considered part of the primary dwelling.

"Public transit" means a location, including but not limited to a bus stop or train station, where the public may access buses and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. This definition includes Laguna Beach Transit and Trolley.
(Ord. 1687 § 3, 2023)

§ 25.17.030. General provisions.

(A) Effect of Consistency. An ADU or JADU that conforms to the requirements of this chapter is:

- (1) Deemed consistent with the allowable density for the lot upon which such unit is proposed to be established.
 - (2) Deemed consistent with the existing general plan and zoning designations for the lot.
 - (3) Not counted towards the calculation for major remodel projects, except as necessary to comply with Section 30253 of the Coastal Act limiting alterations of existing bluff top, beachfront, and coastal canyons, and to determine the applicability of Section 30235 of the Coastal Act and equivalent LCP policies.
- (B) Exceptions to Ministerial Review. Discretionary review may be required as follows.
- (1) Coastal Zone. ADUs that are not exempted or excluded under Chapter **25.07** (Coastal Development Permits) require issuance of a coastal development permit, subject to the noticing and appeal requirements in that chapter.
 - (2) Deviations from Objective Standards. ADU and JADU applications that deviate from the standards of this chapter may still be permitted but shall not qualify for ministerial review. Such applications shall be subject to applicable design review, variance, coastal development permit, and other entitlements pursuant to Title **25**.
- (C) Processing Time. Zoning plan check shall be required for compliance with applicable zoning regulations and applicable building and construction requirements set forth in Titles 14 (Buildings and Construction) and 17 (Sewers).
- (1) Ministerial Review Time. Except as set forth in paragraph (2) below, applications must be approved or denied within 60 days from the date the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot, or the application shall be deemed approved. Where an application deviates from the objective standards of this chapter, the application may be reviewed pursuant to the procedures of Section **25.17.030(B)(2)** (Deviations).
 - (2) If the applicant requests a delay, the 60-day period shall be tolled for the period of the delay.
 - (3) Exception to Review Time. If the permit application to create a purely ministerial ADU or JADU is submitted with an application to construct a new dwelling, the following shall apply:
 - (a) The ADU or JADU shall not be subject to the 60-day approval period but shall instead be subject to the approval period for the new dwelling. However, the ADU or JADU itself shall be considered without a public hearing.
 - (b) An ADU or JADU may only be constructed concurrently with or after the construction of a new dwelling unit on the same lot. A certificate of occupancy for an ADU shall not be issued prior to the certificate of occupancy for the new primary dwelling unit.
 - (4) If the city denies an application for an ADU or JADU, it shall provide a full set of comments with the denial listing the items that are defective or deficient and shall describe how the application can be remedied by the applicant.
 - (5) The City shall not deny a permit to an unpermitted ADU or JADU that was constructed before January 1, 2018 due to violations of building standards or this chapter provided that correction of the violation is not necessary to protect the health and safety of the public or the occupants of the structure. This provision shall not apply to substandard buildings.
- (D) Precedence in Provisions. Applications shall comply with the objective standards outlined in this chapter and the zoning district in which the ADU or JADU is located. In the event of a conflict between the development standards set forth in the zone and the standards of this chapter, the provisions of this chapter shall take precedence.
- (Ord. 1687 § 3, 2023; Ord. 1691 § 3, 2023)

§ 25.17.040. Development standards.

Unless a stated exception applies, ADUs and JADUs must comply with the development standards set forth in this section.

(A) Location. ADUs and JADUs may only be located in the following locations:

- (1) Lots zoned to allow single-family or multifamily dwelling residential use and that include an existing or proposed single-family or multifamily dwelling.
- (2) Lots zoned to allow non-residential uses and developed with legal nonconforming single-family and/or multi-family dwellings.

(B) Lot Area. There is no minimum lot area to establish an ADU or JADU.

(C) Number of Units. A lot may have no more than one ADU (attached, detached or converted) and one JADU, except for multifamily lots as described in Subsection **(D)(3)** below.

(D) Guaranteed Allowance. The following types of ADUs and JADUs require compliance with this subsection D and other development standards do not apply. Coastal resource protection policies continue to apply.

- (1) Attached or Detached ADUs. One attached or detached ADU up to 850 square feet of floor area, or 1,000 square feet of floor area for ADUs providing more than one (1) bedroom, and 4' minimum side and rear yard setbacks.
- (2) Converted ADUs. One ADU and JADU that is within the proposed or existing space of a primary dwelling, or an accessory structure. A converted ADU may include an expansion of up to 75 square feet for any use beyond the same dimensions as the existing structure. Accessory structures may include an additional expansion of up to 150 square feet to accommodate ingress and egress. A converted JADU must be entirely within the existing habitable space of an existing primary dwelling unit. Converted ADUs or JADUs shall comply with the following:
 - (a) The space has exterior access from the proposed or existing single-family dwelling.
 - (b) The side and rear setbacks are sufficient for fire and safety.
 - (c) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
- (3) Multifamily Lots. Either converted or detached ADUs are allowed, but not both.
 - (a) Converted ADUs. A minimum of one ADU may be converted from livable or non-livable space. Additional ADUs may be converted within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, up to maximum of 25% of the existing multifamily dwelling units. A converted JADU must be entirely within the existing habitable space of an existing multifamily dwelling unit. Each ADU shall comply with building code standards for dwellings.
 - (b) Detached ADUs. Not more than two ADUs that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling, are subject to 18 foot maximum height and 4 foot side and rear setbacks.
- (4) Allowable Heights. All ADUs and JADUs shall be subject to the following height limitations:
 - (a) 16 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit.
 - (b) 18 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the **Public Resources Code**. An additional 2 feet in height shall be permitted to align the roof pitch with that of the primary dwelling unit.

- (c) 18 feet for a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling.
 - (d) 25 feet or the zoning code height limitation applicable to the primary dwelling, whichever is lower, for an attached ADU.
- (5) Utility Connections. ADUs and JADUs permitted under 25.17.040(D) shall not be considered new residential uses for the purposes of installing a new or separate utility connection between the ADU or JADU and the utility; or calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory structure is constructed with a new primary dwelling.
- (E) ADUs and JADUs Not Subject to Section **25.17.040** Guaranteed Allowance.
- (1) Minimum and Maximum Size. ADUs shall comply with the following minimum and maximum size limitations:
 - (a) Minimum Size for ADU and JADU: 150 square feet ("efficiency unit" per California **Health and Safety Code** Section 17958.1).
 - (b) Maximum Size for JADU: 500 square feet.
 - (c) Maximum Size for ADUs:
 - (i) Detached ADUs.
 - a. Studios and one bedrooms: 850 square feet.
 - b. ADUs with more than one bedroom: 1,000 square feet.
 - c. ADUs that are ADA compliant: 1,000 square feet.
 - (ii) Attached ADUs.
 - a. Studios and one bedrooms: 850 square feet or 50% of the primary dwelling unit, whichever is less.
 - b. ADUs with more than one bedroom: 1,000 square feet or 50% of the primary dwelling unit, whichever is less.
 - c. ADUs that are ADA compliant: 1,000 square feet or 50% of the primary dwelling unit, whichever is less.
 - (2) Height for New Structures.
 - (a) The height limit for attached and detached ADUs is set forth in Section **25.17.040(D)(4)**. ADUs above the height limitations shall be subject to design review in accordance with Section **25.05.040**.
 - (b) Building height shall be measured from the vertical distance from any point on the finished roof surface to the finished floor surface of the lowest floor measured directly below or to the natural or finished grade, whichever is more restrictive or lower. If the entire lowest floor, measured from the finished floor surface of the floor above, is located completely below natural or finished grade, whichever is more restrictive, then the building height shall be measured to the top of the finished floor of the next level directly above that subterranean level. The height limit shall include roof chimneys, vents, mechanical enclosure, stairways and other such structural elements required for the operation of the building.
 - (3) Setbacks for attached or detached ADUs:
 - (a) Interior side and rear setbacks. A minimum of 4'.

- (b) Bluff Setback. A minimum of 25' from the top of an oceanfront bluff.
 - (c) Watercourse. A minimum of 25' from the centerline of a watercourse.
 - (d) Nonconforming Structure. ADUs that are created in the same location as an existing legally non-conforming structure may maintain the nonconforming setbacks consistent with section (e) below. Any expansions beyond the location and size of the existing legally non-conforming structure shall comply with the above setbacks.
 - (e) Greater setbacks from resources shall be imposed as necessary to protect the resources, consistent with the requirements of the certified Local Coastal Program. Resources may include, but are not limited to, hazardous areas, environmentally sensitive areas, wetlands, public views, and public trails and accessways. The provisions of Section **25.50.004(D)** pertaining to additional building setbacks shall apply.
- (4) Space Between Buildings. The space between a detached ADU and another structure shall be the minimum necessary to comply with Building and Fire Code.
- (5) Design Standards. Standards set forth in this section apply to the exterior of any ADU. Applications shall demonstrate compliance with the following:
- (a) Architectural Standards. The exterior materials and finish, color scheme, and roof design, and pitch of an ADU above 12' in height shall match the primary dwelling building if an ADU is visible from any public or private roadways, excluding alleys.
 - (b) Lighting. Outdoor lighting must be hooded, fully shielded, and aimed downward. Light trespass that results in glare is prohibited.
 - (c) Outdoor Living Space. Covered exterior porches, decks, patios, and other outdoor living spaces attached to the ADU shall comply with the height, setbacks, and design standards above and are limited to 20% maximum floor area of the ADU. Elevated decks more than 3' above adjacent existing grade shall require design review. Roof decks shall be prohibited.
- (6) Parking.
- (a) Replacement of Existing Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU/JADU, the demolition permit for the garage, carport, or covered parking structure shall be reviewed at the same time as the ADU application. In the Coastal Zone, the number of existing parking spaces for a single-family residence or multifamily dwelling shall be replaced on site at a one-to-one ratio. However, an applicant shall not be required to provide more spaces than the minimum number of required off-street parking spaces for the primary structure(s). Replacement parking shall be done either through construction or relocation of existing parking, which may be uncovered and/or tandem, or located in the front or side setback and must be located on private property.
 - (b) On-Site ADU Parking. One parking space per ADU shall be provided. Parking spaces for ADUs must comply with the following requirements:
 - i. May be tandem parking on a driveway.
 - ii. Minimum 3' from side property lines. Larger setbacks may be required based on site specific or fire and life safety conditions, as determined by the Fire Department and/or the Building Division, whichever is more restrictive.
 - iii. Not within a required on-site turnaround area.
 - (c) Exemptions. No parking shall be required for any of the following or in any of the following circumstances:
 - i. In connection with the construction of a JADU.

- ii. Accessory dwelling units converted as part of a proposed or existing habitable space of principal residence or existing accessory structure shall not require parking; however, if parking associated with the existing residence is removed by the converted ADU, the parking shall be replaced elsewhere on the property consistent with this section.
- iii. The ADU is deed restricted as an affordable housing unit.
- iv. The ADU is an ADA compliant housing unit.
- v. The ADU is located within one-half mile walking distance of public transit or within the Downtown Specific Plan area.
- vi. The ADU is located on a lot within 100' of free on-street parking, in a neighborhood with adequate on-street parking supply, and does not degrade the existing emergency vehicle access as determined by the City.
- vii. The ADU is located within a structure listed on the California Register of Historic Resources or the City's historic register.
- viii. The ADU is located on a property within a locked gate community.
- ix. On-street parking permits are required but not offered to the occupant of the ADU.
- x. A car share vehicle is located within one block of the ADU. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to remain in effect at a fixed location, and available to the public.
- xi. The ADU is proposed as part of an existing primary structure.
- xii. The ADU application is submitted with an application for a new primary structure on the same lot.

(Ord. 1687 § 3, 2023; Ord. 1691 § 3, 2023)

Exhibit B



ACCESSORY DWELLING UNITS (ADUs) and JUNIOR ADUs

Space Between Buildings	Min. 10' separation between attached or detached ADUs and any other building. This building separation can be reduced, provided Building and Fire Code requirements are met.
Outdoor Living Space	Covered exterior porches, decks, patios, and other outdoor living spaces attached to the ADU shall comply with the height, setbacks, and design standards above and are limited to 20% maximum floor area of the ADU. Elevated decks more than 3' above adjacent existing grade shall require design review. Roof decks shall be prohibited.
Historic Resources	Attached ADUs, converted ADUs, and JADUs proposed to structure listed on the California Register of Historic Resources of the City's Register shall meet all Secretary of the Interior Standards, as applicable.
Lighting	Outdoor lighting must be hooded, fully shielded, and aimed downward.
Nonconforming Structure	ADUs created in the same location as an existing legally non-conforming structure may maintain the nonconforming setbacks and height. Any expansions beyond the existing dimensions of the legally non-conforming structure shall comply with the requirements.
Vehicular Access	Utilize the same vehicular access that serves the primary buildings, unless the Fire and Public Works Department finds that a secondary access will not degrade existing safety or traffic concerns. Secondary access requires Design Review.
CDP	Administrative Coastal Development Permit is required for ATTACHED and DETACHED ADUs. The City's decision will be subject to a 10-working day appeal period once the California Coastal Commission acknowledges receipt of the notice. If no appeal is filed, the City's decision is final. Administrative Design Review approval of a Coastal Development Permit is required for ATTACHED ADUs when staff determines that the ADU may impact public views to and along the ocean and scenic coastal areas. Projects located within a mapped categorical exclusion area are exempt from this requirement.
Fees	Sewer Connection Fees apply to ATTACHED/DETACHED ADUs. School Fees apply to ATTACHED/DETACHED ADUs above 500 sqft.
Additional Development Standards	Applicable to ATTACHED OR DETACHED ADUS LARGER THAN 850 sqft (STUDIO/1-BR) OR 1,000 sqft (2-BR OR MORE)
Design Standards	The exterior materials and finish, color scheme, and roof design, and pitch of an ADU above 12' in height shall match the primary dwelling building if an ADU is visible from any public or private roadway (including alleys).
Parking	Replacement of Existing Parking for the Primary Residence is required when a garage, carport, or covered parking structure is converted or demolished to create an ADU or JADU. Replacement parking can be uncovered, tandem, and located within the front or side yard setback. One Parking Space per ADU Required and shall comply with the following: <ul style="list-style-type: none">• May be provided on a driveway.• Min. 3' from side property lines. Larger setbacks may be required based on site specific or fire and life safety conditions, as determined by the Fire Department and/or the Building Division, whichever is more restrictive.• Not within a required on-site turnaround area. ADU Parking is Not Required in any of the following circumstances: <ul style="list-style-type: none">• Converted ADU or JADU.• ADU is deed restricted as an affordable housing unit.• ADU is an ADA-compliant housing unit.• ADU is located within 1/2-mile walking distance of public transit (includes Trolley) or within the Downtown Specific Plan area.• ADU is located on a lot within 100' of free on-street parking, in a neighborhood with adequate on-street parking supply, and does not degrade the existing emergency vehicle access as determined by the City.• ADU is located within a structure listed on the California Register of Historic Resources or the City's Historic Register.• ADU is located on a property within a locked gate community.• On-street parking permits are required but not offered to the occupant of the ADU.• A car share vehicle is located within one block of the ADU.• The ADU project is submitted with an application for a new primary structure on the same lot.

Exhibit C

Thursday, June 13, 2024 at 16:08:15 Pacific Daylight Time

Subject: RE: 1673 Louise St. ADU
Date: Monday, April 8, 2024 at 3:52:06 PM Pacific Daylight Time
From: Dobson, Amber CD
To: Warren Hutcherson, Latham, Daniel CD
CC: karenreinecke4@gmail.com, Steven Reinecke
Attachments: Reinecke ADU.pdf

Hello Warren,

Yes, you are correct. The assessment done by staff determined that there was no public view impact anyway.

Daniel will assist with providing stamped approved plans.

-Amber

From: Warren Hutcherson <wh3d@cox.net>
Sent: Thursday, April 4, 2024 1:41 PM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: karenreinecke4@gmail.com; steven@smreinecke.com
Subject: 1673 Louise St. ADU

[**NOTICE:** This message originated outside of City of Laguna Beach -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Hi Amber,

Pursuant to CITY OF LAGUNA BEACH ADU QUICK GUIDE Updated February 2024; and Administrative Design Review approval of a Coastal Development Permit is required for ATTACHED ADUs when staff determines that the ADU may impact public views to and along the ocean and scenic coastal areas. **Projects located within a mapped categorical exclusion area are exempt from this requirement;** and that 1673 Louise St. is in the Local Coastal Program Exclusion Area 1) Hillcrest Area (Per Categorical Exclusion Order E-93-1); and the ADU proposal (attached) does not require a CDP (Coastal Development Permit); and previous exemptions have been processed through the city; and 1673 Louise St. has been deemed complete by city staff, 1673 Louise St. ADU is therefore approved through the city zoning department and cleared to the building department for building plan check.

Please provide written clearance as such at your earliest convenience.

Thank you,

Warren

Exhibit D

Thursday, June 13, 2024 at 16:16:50 Pacific Daylight Time

Subject: FW: Re: Over the Counter Plan Check
Date: Thursday, June 13, 2024 at 4:16:44 PM Pacific Daylight Time
From: Steven Reinecke

From: Warren Hutcherson <wh3d@cox.net>
Date: Wednesday, May 29, 2024 at 1:49 PM
To: Latham, Daniel CD <dlatham@lagunabeachcity.net>, karenreinecke4@gmail.com <karenreinecke4@gmail.com>, steven@smreinecke.com <steven@smreinecke.com>
Subject: Re: Over the Counter Plan Check

Hi Daniel,
Please let me know your availability tomorrow to meet with the owners. This is urgent!
Please do not send out any notices.
Thank you,
Warren

On Monday, May 20, 2024 at 05:59:11 PM PDT, Warren Hutcherson <wh3d@cox.net> wrote:

Hi Daniel,
Can you please explain a little more so I can explain this to my client?
Thank you,
Warren

On Monday, May 20, 2024 at 01:26:21 PM PDT, Latham, Daniel CD <dlatham@lagunabeachcity.net> wrote:

Hi Warren - The exclusion for the Louise ADU was rejected by Coastal and we will be sending the notice today for the CDP. We are funding this notice.

Thank you,

Daniel Latham

Associate Planner

City of Laguna Beach

dlatham@lagunabeachcity.net

949.464.6612

Please note our City Hall office hours:

Mon – Thurs 7:30 – 5:30

Every other Friday 7:30 – 4:30

Closed alternating Fridays

Need to make a telephone or virtual appointment with a planner? Check out our [Bookings](#) system!

Exhibit E

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: Categorical Exclusion Notice
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: May 2, 2024 1:37 PM (UTC-04:00)
Attached: Comment Letter to City of San Clemente on CATEX and ADUs.pdf, ADU-Memo 1.21.2022.pdf

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

We received the Categorical Exclusion Notice for the project at 1673 Louise Street (Case No. ZPC 2023-1391). We have also researched the status of the City's Categorical Exclusion Order No. E-93-1. That Order remains in effect as approved by the Coastal Commission May 13, 1993, and becoming fully effective upon receipt of the final maps in 1994. No changes to Categorical Exclusion Order No. E-93-1 since that approval have been approved by the Coastal Commission.

Regarding residential development, approved Categorical Exclusion Order E-93-1 excludes from coastal development permit requirements single family residential development in the eleven areas identified in the Order. The Order does not exclude the addition of Accessory Dwelling Units (ADUs) to existing single family residences. Therefore, the subject project (Case No. ZPC 2023-1391) does not qualify for a categorical exclusion.

Attached is a 2021 letter to the City of San Clemente on this subject, with attached CCC memos on the topic. Also attached is a more recent CCC memo (1/21/2022) on this topic.

Please let me know if you have any questions.

Thank you,

Meg Vaughn

Coastal Program Analyst

California Coastal Commission

meg.vaughn@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 E Ocean Blvd, Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



November 23, 2021

City of San Clemente
Cecilia Gallardo-Daly, Community Development Director
910 Calle Negocio, Suite 100
San Clemente, CA 92673

Delivered via electronic mail

Re: City of San Clemente CatEx Order E-82-1 and Accessory Dwelling Units (ADUs)

Dear Ms. Gallardo-Daly,

In our quarterly coordination meeting on August 5, 2021, Commission staff learned that accessory dwelling units (“ADUs”) or junior accessory dwelling units (“JADUs”)¹ have been previously processed and authorized in the categorically excluded areas of the Coastal Zone of San Clemente without a coastal development permit (CDP). The City’s decision prompts questions of regulatory consistency² regarding the increase of intensity of use of a single-family residence via a categorical exclusion determination that we would like to bring to your attention and help to address in future City determinations of this kind.

The purpose of Categorical Exclusion (CatEx) Order E-82-1 is to narrowly streamline the administrative process for single- and multi-family residential developments determined to pose relatively low risk of impacts to coastal resources, as identified in the Coastal Act. If a proposed accessory structure or use isn’t necessary or “appurtenant” to the construction of a residence, it is **not** eligible development considered under the CatEx Order because it falls outside of the narrow scope of development considered in the CatEx Order and may require more extensive review than the 7-day period allotted for CatEx applications. If an applicant wishes to propose improvements or additions to residences with accessory structures/development, the appropriate mechanism for review of such a proposal is through a CDP application. Thus, because ADUs and JADUs are considered accessory to a single-family residence, rather than “appurtenant,” approval of an ADU or JADU via the City’s existing CatEx is not appropriate.

Additionally, there are similar considerations for whether ADU/JADU projects may be eligible for an exemption. ADU/JADU projects are typically considered “development” under the Coastal Act, as defined in Section 30106, because they result in a “change in density or intensity of use of land.” Such projects normally do not qualify as exempt from the requirement to obtain a coastal development permit under Section 30610 of the Coastal Act because California Code of Regulations § 13250(a)(2) precludes exemption eligibility for guest houses or self-contained residential units converted from structures like garages or storage sheds, or because such projects

¹ JADUs are 500 square feet or less, as defined by Gov. Code § 65852.2(e)(1)(A) and 65852.22.

² Please see the Coastal Commission’s statewide guidance on accessory dwelling units (“ADUs”) contained in memoranda dated April 18, 2017, November 20, 2017, and April 21, 2020 (attached).

involve the risk of adverse environmental effects. Thus, there are very few circumstances where such development is determined to be exempt from a CDP requirement.

At this time, there are several other provisions to expedite approval for ADU/JADU projects within the Coastal Zone of the City of San Clemente. First, there may be very select cases where a JADU may be exempted. In other cases, the development approval may be streamlined through a particular type of CDP known as a “De Minimis Waiver.” In the future, the City may incorporate procedures for a streamlined review of coastal development permits into a certified Local Coastal Program (LCP) for the coastal zone segments within the City of San Clemente. The City may also pursue a new CatEx order that specifically addresses ADU/JADU development. Until such provisions are legally enacted, however, Commission staff recommend that the City and Commission coordinate permitting procedures for ADU/JADU projects for efficient processing. We look forward to future collaboration with the City of San Clemente to ensure that development is permitted in a manner consistent with the Coastal Act and state law.

Sincerely,

Shannon Vaughn

shannon.vaugn

District Manager, South Coast District

cc: Christopher Wright, City of San Clemente

Attachments:

April 18, 2017 CCC ADU memorandum

November 20, 2017 CCC ADU memorandum

April 21, 2020 CCC ADU memorandum

CALIFORNIA COASTAL COMMISSION

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TO: Planning Directors of Coastal Cities and Counties

FROM: John Ainsworth, Executive Director

RE: New Accessory Dwelling Unit Legislation

DATE: April 18, 2017

New State requirements regarding local government regulation of “accessory dwelling units” (ADUs) became effective on January 1, 2017. The Legislature amended Government Code section 65852.2 to modify the requirements that local governments may apply to ADUs, most notably with respect to parking. The Legislature further specified that local ADU ordinances enacted prior to 2017 that do not meet the requirements of the new legislation are null and void. (Gov. Code, § 65852.2, subd. (a)(4).) Significantly, however, the Legislature further directed that the statute shall not be interpreted to “supersede or in any way alter or lessen the effect or application of the California Coastal Act . . . except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.” (Gov. Code, § 65852.2, subd. (j).) The Legislature also enacted Government Code section 65852.22, which establishes streamlined review of “junior” ADUs in jurisdictions that adopt ordinances that meet certain specified criteria. Unlike Government Code section 65852.2, the junior ADU statute does not specifically address or refer to the Coastal Act.

The Coastal Act requires the Coastal Commission to encourage housing opportunities for low and moderate income households and calls for the concentration of development in existing developed areas. (Pub. Resources Code, §§ 30250, subd. (a); 30604, subd. (f).) The creation of new ADUs in existing residential areas is a promising strategy for increasing the supply of lower-cost housing in the coastal zone in a way that avoids significant adverse impacts on coastal resources.

Some local governments have requested guidance from the Coastal Commission regarding how to implement the ADU and junior ADU statutes in light of Coastal Act requirements. This memorandum is intended to provide general guidance for local governments with fully certified local coastal programs (LCPs). The Coastal Commission is generally responsible for Coastal Act review of ADUs in areas that are not subject to fully certified LCPs. Local governments that have questions about specific circumstances not addressed in this memorandum should contact the appropriate district office of the Coastal Commission.

1) Update Local Coastal Programs

The Coastal Commission strongly recommends that local governments amend their LCPs to address the review of coastal development permit (CDP) applications for ADUs in light of the new



legislation. Currently certified provisions of LCPs, including specific LCP ADU sections currently in place, are not superseded by Government Code section 65852.2 and continue to apply to CDP applications for ADUs. Any conflicts between those LCP provisions and the new statutory requirements as they apply to *local permits other than CDPs*, however, may cause confusion that unnecessarily thwarts the Legislature's goal of encouraging ADUs. Government Code section 65852.2 expressly allows local governments to adopt local ordinances that include criteria and standards to address a wide variety of concerns, including potential impacts to coastal resources, and thus the coastal resource context applicable to any particular local government jurisdictional area needs to be addressed in any proposed LCP ADU sections. Coastal Commission staff anticipates that LCP amendments to implement the ADU legislation will reconcile Coastal Act requirements with the ADU statutes, thus allowing accomplishment of the Legislature's goals both with respect to coastal protection and encouragement of ADUs.

When evaluating what specific changes to make to an LCP, consider whether amendments to the land use plan component of the LCP are necessary in order to allow proposed changes to the implementation plan component. LCP amendments that involve purely procedural changes, that do not propose changes in land use, and/or that would have no impact on coastal resources may be eligible for streamlined review as minor or de minimis amendments. (Pub. Resources Code, § 30514, subd. (d); Cal. Code Regs., § 13554.)

2) Review of ADU Applications

- A) **Check CDP History for the Site.** The ADU statutes apply to residentially zoned lots that currently have a legally established single-family dwelling. Determine whether a CDP was previously issued for development of the lot and whether that CDP limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. In such cases, previous CDP requirements must be understood in relation to the proposed ADU, and they may restrict the proposal. If an ADU application raises questions regarding a Coastal Commission CDP, including if an amendment to a CDP issued by the Coastal Commission may be necessary, instruct the applicant to contact the appropriate district office of the Coastal Commission.
- B) **Determine Whether the Proposed ADU Qualifies As Development.** The Coastal Act's permitting requirements apply to development performed or undertaken in the coastal zone. (Pub. Resources Code, § 30600, subd. (a).) Minor changes to an existing legally established residential structure that do not involve the removal or replacement of major structural components (e.g., roofs, exterior walls, foundations) and that do not change the size or the intensity of use of the structure do not qualify as development with the meaning of the Coastal Act. A junior ADU that complies with the requirements of an ordinance enacted pursuant to Government Code section 65852.22 generally will not constitute development because it will not change the building envelope and because it must contain at least one bedroom that was previously part of the primary residence. Such minor changes do not require a Coastal Act approval such as a CDP or waiver unless specified in a previously issued CDP for existing development on the lot. If questions arise regarding whether a

proposed ADU qualifies as development, please contact the appropriate district office of the Coastal Commission.

C) If the Proposed ADU Qualifies As Development, Determine Whether It Is Exempt.

Improvements such as additions to existing single-family dwellings are generally exempt from Coastal Act permitting requirements except when they involve a risk of adverse environmental effects as specified in the Coastal Commission's regulations. (Pub. Resources Code, § 30610, subd. (a); Cal. Code Regs., tit. 14, § 13250.) Improvements that qualify as exempt development under the Coastal Act and its implementing regulations do not require Coastal Act approval unless required pursuant to a previously issued CDP. (Cal. Code Regs., tit. 14, § 13250, subd. (b)(6).)

An improvement does not qualify as an exempt improvement if the improvement or the existing dwelling is located on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff. Improvements that involve significant alteration of land forms as specified in section 13250 of the Commission's regulations also are not exempt. In addition, the expansion or construction of water wells or septic systems are not exempt. Finally, improvements to structures located between the first public road and the sea or within 300 feet of a beach or the mean high tide line are not exempt if they either increase the interior floor area by 10 percent or more or increase the height by more than 10 percent. (Cal. Code Regs., tit. 14, § 13250, subd. (b).)

To qualify as an exempt improvement to a single-family dwelling, an ADU must be contained within or directly attached to the existing single-family structure. "[S]elf-contained residential units," i.e., detached residential units, do not qualify as part of a single-family residential structure and construction of or improvements to them are therefore not exempt development. (Cal. Code Regs., tit. 14, § 13250, subd. (a)(2).) Again, if questions arise regarding CDP exemption requirements, please contact the appropriate district office of the Coastal Commission.

D) If the Proposed ADU Is Not Exempt From CDP Requirements, Determine Whether A CDP Waiver is Appropriate.

If a proposed ADU qualifies as an improvement to a single-family dwelling but is not exempt, a local government may waive the requirement for a CDP if the LCP includes a waiver provision and the proposed ADU meets the criteria for a CDP waiver. Such provisions generally allow a waiver if the local government finds that the impact of the ADU on coastal resources or coastal access would be insignificant. (See Cal. Code Regs., tit. 14, § 13250, subd. (c).) In addition, they generally allow a waiver if the proposed ADU is a detached structure and the local government determines that the ADU involves no potential for any adverse effect on coastal resources and that it will be consistent with the Chapter 3 policies of the Coastal Act. (See Pub. Resources Code, § 30624.7.) Some LCPs do not provide for waivers, but may allow similar expedited approval procedures. Those other expedited approval procedures may apply. If an LCP does not include provisions

regarding CDP waivers or other similar expedited approvals, the local government may submit an LCP amendment to authorize those procedures.

- E) **If a Waiver Would Not Be Appropriate, Review CDP Application for Consistency With Certified LCP Requirements.** If a proposed ADU constitutes development, is not exempt, and is not subject to a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act, except that no local public hearing is required. (Gov. Code, § 65852.2, subd. (j).) Provide the required public notice for any CDP applications for ADUs, and process the CDP application according to LCP requirements. Once a final decision on the CDP application has been taken, send the required final local action notice to the appropriate district office of the Coastal Commission. (Cal. Code Regs., tit. 14, §§ 13565-13573.) If the ADU qualifies as appealable development, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Resources Code, § 30603.)

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TO: Planning Directors of Coastal Cities and Counties

FROM: John Ainsworth, Executive Director

RE: Implementation of New Accessory Dwelling Unit Law

DATE: November 20, 2017

On April 18, 2017, we circulated a memo intended to help local governments interpret and implement new state requirements regarding regulation of “accessory dwelling units” (ADUs) in the coastal zone. Following the enactment of AB 2299 (Bloom) and SB 1069 (Wiekowski), changes to Government Code 65852.2 now impose specific requirements on how local governments can and cannot regulate ADUs, with the goal of increasing statewide availability of smaller, more affordable housing units. Our earlier memo was intended to help coastal jurisdictions and members of the public understand how to harmonize the new ADU requirements with LCP and Coastal Act policies. This memo is meant to provide further clarification and reduce confusion about whether and how to amend LCPs in response to these changes.

Although Government Code Section 65852.2(j) states that it does not supersede or lessen the application of the Coastal Act, it would be a mistake for local governments with certified LCPs to interpret this as a signal that they can simply disregard the new law in the coastal zone. The Commission interprets the effect of subdivision (j) as preserving the authority of local governments to protect coastal resources when regulating ADUs in the coastal zone, while also complying with the standards in Section 65852.2 to the greatest extent feasible. In other words, ADU applications that are consistent with the standards in Section 65852.2 should be approved administratively, provided they are also consistent with Chapter 3 of the Coastal Act as implemented in the LCP. Where LCP policies and ordinances are already flexible enough to implement the provisions of Section 65852.2 directly, local governments should do so. Where LCP policies directly conflict with the new provisions or require refinement, those LCPs should be updated to be consistent with the new ADU statute to the greatest extent feasible while still complying with Coastal Act requirements.

Bear in mind that Section 65852.2 still preserves a meaningful level of local control by authorizing local governments to craft policies that address local realities. It allows local governments to designate areas where ADUs are allowed based on criteria such as the adequacy of public services and public safety considerations. It also explicitly allows local governments to adopt ordinances that impose certain standards, including but not limited to standards regarding height, setbacks, lot coverage, zoning density, and maximum floor area. In the coastal zone, local governments can incorporate such standards in LCP policies in order to protect Chapter 3 resources while still streamlining approval of ADUs.

Therefore, the Commission reiterates its previous recommendation that local governments amend their LCPs accordingly, using Section 65852.2 as a blueprint for crafting objective

standards related to design, floor area, parking requirements and processing procedures for ADUs in a manner that protects wetlands, sensitive habitat, public access, scenic views of the coast, productive agricultural soils, and the safety of new ADUs and their occupants. Depending on the individual LCP, such amendments might include:

- Updating the definition of an ADU (variously referred to in existing LCPs as second units, granny units, etc.)
- Implementing an administrative review process for ADUs that includes sufficient safeguards for coastal resources
- Re-evaluating the minimum and maximum ADU floor area and related design standards
- Specifying that ADUs shall not be required to install new or separate utility connections
- For ADUs contained within existing residences or accessory structures, eliminating local connection fees or capacity charges for utilities, water and sewer services.
- Providing for ministerial approval of Junior Accessory Dwelling Units (JADUs)
- Clarifying that no more than one additional parking space per bedroom is required
- Eliminating off-street parking requirements for ADUs located within a ½ mile of public transit, an architecturally significant historic district, an existing primary residence or accessory structure, one block of a car share vehicle, or where on-street parking permits are required but not offered to the occupant of an ADU

This is just a partial list, as specific changes will depend on existing LCP policies as well as unique local resource constraints. See our earlier memo for additional recommendations.

We are currently conducting a survey to identify the number of local governments which have already initiated the amendment process. For those that have not, Commission staff strongly urges those jurisdictions to do so in the very near future.

To expedite the process, the Commission will process ADU-specific LCPAs as minor or de minimis amendments whenever possible. We realize that procedural requirements for public review and participation can be time consuming, and will strive to complete the Commission's review process expeditiously. In the interim, we urge local governments to consider which provisions of Section 65852.2 might be implemented administratively, through existing procedures, definitions, or variances. Because each LCP is distinct and unique to its particular jurisdiction, some are inherently more flexible than others. We strongly suggest applying any existing discretion in a manner that conforms to Section 65852.2 as well as your LCP.

We acknowledge that because of the nature of our state/local partnership the Commission cannot compel local governments to undertake these amendments. The foregoing advice is offered in the spirit of our mutual goals and responsibilities of preserving both Coastal Act objectives and local control of planning and permitting decisions. We are grateful that the Legislature elected to preserve the integrity of the Coastal Act when it passed these bills. We are also mindful that this did not reflect any intent to discourage ADUs in the coastal zone, but rather to ensure that new ADU incentives are implemented in a way that does not harm coastal resources. In order to maintain the Legislature's continued support for this approach, and avoid the imposition of unilateral coastal standards for ADUs in the future, it is essential to demonstrate that these housing policies can and will be responsibly implemented in the coastal zone.

My staff and I remain ready and available to assist in this effort.

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director
Re: Implementation of New ADU Laws
Date: April 21, 2020

The Coastal Commission has previously circulated two memos to help local governments understand how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”). As of January 1, 2020, AB 68, AB 587, AB 670, AB 881, and SB 13 each changed requirements on how local governments can and cannot regulate ADUs and JADUs, with the goal of increasing statewide availability of smaller, more affordable housing units. This memo is meant to describe the changes that went into effect on January 1, 2020, and to provide guidance on how to harmonize these new requirements with Local Coastal Program (“LCP”) and Coastal Act policies.

Coastal Commission Authority Over Housing in the Coastal Zone

The Coastal Act does not exempt local governments from complying with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households. (Pub. Res. Code § 30604(f).) New residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.) The creation of new ADUs in existing residential areas is a promising strategy for increasing the supply of lower-cost housing in the coastal zone in a way that may be able to avoid significant adverse impacts on coastal resources.

This memorandum is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is generally responsible for Coastal Act review of ADUs in areas that are not subject to fully certified LCPs. Local governments that have questions about specific circumstances not addressed in this memorandum should contact the appropriate district office of the Commission.

Implementation of New ADU Laws

April 21, 2020

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Overview of New Legislation¹

The new legislation effective January 1, 2020 updates existing Government Code Sections 65852.2 and 65852.22 concerning local government procedures for review and approval of ADUs and JADUs. As before, local governments have the discretion to adopt an ADU ordinance that is consistent with state requirements. (Gov. Code § 65852.2(a).) AB 881 (Bloom) made numerous significant changes to Government Code section 65852.2. In their ADU ordinances, local governments may still include specific requirements addressing issues such as design guidelines and protection of historic structures. However, per the recent state law changes, a local ordinance may not require a minimum lot size, owner occupancy of an ADU, fire sprinklers if such sprinklers are not required in the primary dwelling, or replacement offstreet parking for carports or garages demolished to construct ADUs. In addition, a local government may not establish a maximum size for an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom. (Gov. Code § 65852.2(c)(2)(B).) Section 65852.2(a) lists additional mandates for local governments that choose to adopt an ADU ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).)

Some local governments have already adopted ADU ordinances. Existing or new ADU ordinances that do *not* meet the requirements of the new legislation are null and void, and will be substituted with the provisions of Section 65852.2(a) until the local government comes into compliance with a new ordinance. (Gov. Code § 65852.2(a)(4).) However, as described below, existing ADU provisions contained in certified LCPs are not superseded by Government Code section 65852.2 and continue to apply to CDP applications for ADUs until an LCP amendment is adopted. One major change to Section 65852.2 is that the California Department of Housing and Community Development (“HCD”) now has an oversight and approval role to ensure that local ADU ordinances are consistent with state law, similar to the Commission’s review of LCPs. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h).)

If a local government does *not* adopt an ADU ordinance, state requirements will apply directly. (Gov. Code § 65852.2(b)–(e).) Section 65852.2 subdivisions (b) and (c) require that local agencies shall ministerially approve or disapprove applications for permits to create ADUs. Subdivision (e) requires ministerial approval, whether or not a local government has adopted an ADU ordinance, of applications for building permits of the following types of ADUs and JADUs in residential or mixed use zones:

- One ADU or JADU per lot *within* a proposed or existing single-family dwelling or existing space of a single-family dwelling or accessory structure, including an expansion of up to 150 square feet beyond the existing dimensions of an existing accessory structure; with exterior access from the proposed or existing single-family

¹ This Guidance Memo only provides a partial overview of new legislation related to ADUs. The Coastal Commission does not interpret or implement these new laws.

Implementation of New ADU Laws

April 21, 2020

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dwelling; side and rear setbacks sufficient for fire and safety; and, if a JADU, applicant must comply with requirements of Section 65852.22; (§ 65852.2(e)(1)(A)(i)-(iv))

- One detached, new construction ADU, which may be combined with a JADU, so long as the ADU does not exceed four-foot side and rear yard setbacks for the single family residential lot; (§ 65852.2(e)(1)(B))
- Multiple ADUs within the portions of existing multifamily dwelling structures that are not currently used as dwelling spaces; (§ 65852.2(e)(1)(C))
- No more than two detached ADUs on a lot that has an existing multifamily dwelling, subject to a 16-foot height limitation and four-foot rear yard and side setbacks. (§ 65852.2(e)(1)(D))

ADUs and JADUs created pursuant to Subdivision (e) must be rented for terms greater than 30 days. (Gov. Code § 65852.2(e)(4).)

What Should Local Governments in the Coastal Zone Do?

1) Update Local Coastal Programs (LCPs)

Local governments are required to comply with both these new requirements for ADUs/JADUs and the Coastal Act. Currently certified provisions of LCPs are not, however, superseded by Government Code section 65852.2, and continue to apply to CDP applications for ADUs until an LCP amendment is adopted. Where LCP policies directly conflict with the new provisions or require refinement to be consistent with the new laws, those LCPs should be updated to be consistent with the new ADU provisions to the greatest extent feasible, while still complying with Coastal Act requirements.

As noted above, Section 65852.2 expressly allows local governments to adopt local ordinances that include criteria and standards to address a wide variety of concerns, including potential impacts to coastal resources. For example, a local government may address reductions in parking requirements that would have a direct impact on public access. As a result, we encourage local governments to identify the coastal resource context applicable in a local jurisdiction and ensure that any proposed ADU-related LCP amendment appropriately addresses protection of coastal resources consistent with the Coastal Act at the same time that it facilitates ADUs/JADUs consistent with the new ADU provisions. For example, LCPs should ensure that new ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas, wetlands, or in areas where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime. Our staff is available to assist in the efforts to amend LCPs.

Please note that LCP amendments that involve purely procedural changes, that do not propose changes in land use, and/or that would have no impacts on coastal resources may be eligible for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); Cal. Code Regs., tit. 14, § 13554.) The Commission will process ADU-specific LCP amendments as minor or de minimis amendments whenever possible.

Implementation of New ADU Laws

April 21, 2020

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2) Follow This Basic Guide When Reviewing ADU or JADU Applications

a. Check Prior CDP History for the Site.

Determine whether a CDP was previously issued for development of the lot and whether that CDP limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP limits the applicant's ability to apply for an ADU or JADU.

b. Determine Whether the Proposed ADU or JADU Qualifies as Development.

Any person "wishing to perform or undertake any development in the coastal zone" shall obtain a CDP. (Pub. Res. Code § 30600.) Development as defined in the Coastal Act includes not only "the placement or erection of any solid material or structure" on land, but also "change in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.) Government Code section 65852.2 states that an ADU that conforms to subdivision (a) "shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot." (Gov. Code § 65852.2(a)(8).)

Conversion of an existing legally established room(s) to create a JADU or ADU within an existing residence, without removal or replacement of major structural components (i.e. roofs, exterior walls, foundations, etc.) and that do not change the size or the intensity of use of the structure may not qualify as development within the meaning of the Coastal Act, or may qualify as development that is either exempt from coastal permit requirements and/or eligible for streamlined processing (Pub. Res. Code §§30106 and 30610), see also below. JADUs created within existing primary dwelling structures that comply with Government Code Sections 65852.2(e) and 65852.22 typically will fall into one of these categories, unless specified otherwise in a previously issued CDP or other coastal authorization for existing development on the lot. However, the conversion of detached structures associated with a primary residence to an ADU or JADU may involve a change in the size or intensity of use that would qualify as development under the Coastal Act and require a coastal development permit, unless determined to be exempt or appropriate for waiver.

c. If the Proposed ADU Qualifies as Development, Determine Whether It Is Exempt.

Improvements such as additions to existing single-family dwellings are generally exempt from Coastal Act permitting requirements except when they involve a risk of adverse environmental effects as specified in the Commission's regulations. (Pub. Res. Code § 30610(a); Cal. Code Regs., tit. 14, § 13250.) Improvements that qualify as exempt development under the Coastal Act and its implementing regulations do not require a CDP from the Commission or a local government unless required pursuant to a previously issued CDP. (Cal. Code Regs., tit. 14, § 13250(b)(6).)

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Typically, the construction or conversion of an ADU/JADU contained within or directly attached to an existing single-family residence would qualify as an exempt improvement to a single-family residence. (Cal. Code Regs., tit. 14, § 13250(a)(1).) Guest houses and “self-contained residential units,” i.e. detached residential units, do not qualify as part of a single-family residential structure, and construction of or improvements to them are therefore not exempt development. (Cal. Code Regs., tit. 14, § 13250(a)(2).)

d. If the Proposed ADU is Not Exempt from CDP Requirements, Determine Whether a CDP Waiver Is Appropriate.

If the LCP includes a waiver provision, and the proposed ADU or JADU meets the criteria for a CDP waiver the local government may waive the permit requirement for the proposed ADU or JADU. The Commission generally has allowed a waiver for proposed *detached* ADUs if the executive director determines that the proposed ADU is de minimis development, involving no potential for any adverse effects on coastal resources and is consistent with Chapter 3 policies. (See Pub. Res. Code § 30624.7.)

Some LCPs do not allow for waivers, but may allow similar expedited approval procedures. Those other expedited approval procedures may apply. If an LCP does not include provisions regarding CDP waivers or other similar expedited approvals, the local government may submit an LCP amendment to authorize those procedures.

e. If a Waiver Would Not Be Appropriate, Review CDP Application for Consistency with Certified LCP Requirements.

If a proposed ADU constitutes development, is not exempt, and is not subject to a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government then must provide the required public notice for any CDP applications for ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law if feasible. Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the ADU qualifies as appealable development, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

Information on AB 68, AB 587, AB 670, and SB 13

JADUs – AB 68 (Ting)

JADUs are units of 500 square feet or less, contained entirely within a single-family residence or existing accessory structure. (Gov. Code §§ 65852.2(e)(1)(A)(i) and 65852.22(h)(1).) AB 68 (Ting) made several changes to Government Code section 65852.22, most notably regarding the creation of JADUs pursuant to a local government ordinance. Where a local

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government has adopted a JADU ordinance, “[t]he ordinance may require a permit to be obtained for the creation of a [JADU].” (Gov. Code § 65852.22(a).) If a local government adopts a JADU ordinance, a maximum of one JADU shall be allowed on a lot zoned for single-family residences, whether they be proposed or existing single-family residences. (Gov. Code § 65852.22(a)(1).) (This formerly only applied to *existing* single-family residences. Now, proposals for a new single-family residence can include a JADU.) Efficiency kitchens are no longer required to have sinks, but still must include a cooking facility with a food preparation counter and storage cabinets of reasonable size relative to the space. (Gov. Code § 65852.22(a)(6).) Applications for permits pursuant to Section 65852.22 shall be considered ministerially, within 60 days, if there is an existing single-family residence on the lot. (Gov. Code § 65852.22(c).) (Formerly, complete applications were to be acted upon within 120 days.)

If a local government has *not* adopted a JADU ordinance pursuant to Section 65852.22, the local government is required to ministerially approve building permit applications for JADUs within a residential or mixed-use zone pursuant to Section 65852.2(e)(1)(A). (Gov. Code § 65852.22(g).) That section is detailed in bullet points on pages two-three of this memorandum and refers to specific ADU and JADU approval scenarios.

Sale or Conveyance of ADUs Separately from Primary Residence – AB 587 (Friedman)

AB 587 (Friedman) added Section 65852.26 to the Government Code to allow a local government to, by ordinance, allow the conveyance or sale of an ADU separately from a primary residence if several specific conditions all apply. (Gov. Code § 65852.26.) This section only applies to a property built or developed by a qualified nonprofit corporation, which holds enforceable deed restrictions related to affordability and resale to qualified low-income buyers, and holds the property pursuant to a recorded tenancy in common agreement. Please review Government Code Section 65852.26 if such conditions apply.

Covenants and Deed Restrictions Null and Void – AB 670 (Friedman)

AB 670 added Section 4751 to the California Civil Code, making void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an ADU or JADU on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code.

Delayed Enforcement of Notice to Correct a Violation – SB 13 (Wieckowski)

SB 13 (Wieckowski) Section 3 added Section 17980.12 to the Health and Safety Code. The owner of an ADU who receives a notice to correct a violation can request a delay in enforcement, if the ADU was built before January 1, 2020, or if the ADU was built after January 1, 2020, but the jurisdiction did not have a compliant ordinance at the time the request to fix the violation was made. (Health & Saf. Code § 17980.12.) The owner can request a delay of five (5) years on the basis that correcting the violation is not necessary to protect health and safety. (Health & Saf. Code § 17980.12(a)(2).)

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

RE: Updates Regarding the Implementation of New ADU Laws

I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that “[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

III. Overview of New Legislation

As of January 1, 2020, [AB 68](#), [AB 587](#), [AB 881](#), [AB 670](#), [AB 671](#), and [SB 13](#) collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.
- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)
- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/ADU

ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant’s ability to apply for a J/ADU.

2) Determine whether the proposed J/ADU constitutes “development.”

As defined by the Coastal Act, development refers to both “the placement or erection of any solid material or structure” on land as well as any “change[s] in the density or intensity of use of land[.]” (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission’s implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that “the creation of a self-contained living unit, in the form of an ADU, is not an ‘improvement’ to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property.”¹ On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government’s proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission’s recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.

3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.

If a local government’s LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. The Commission has generally allowed a CDP waiver for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission’s regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state’s J/ADU provisions, public hearings are not required for qualifying development.

¹ See Coastal Commission [staff report](#), pp. 16-17 (Commission acted on this item on December 17, 2021).

Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)

Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.

Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.

4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

- a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.
- b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

- a. Within ½ mile walking distance of public transportation stops/routes;
- b. Within a historic district;
- c. Within a primary residence or accessory structure;
- d. When on-street parking permits are required but not offered to the occupant of the ADU;

- e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with 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 (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

[City of Santa Cruz \(approved May 2021\)](#). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

[City of Pacifica \(approved June 2021\)](#). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

[County of San Mateo \(approved July 2021\)](#). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

City of Encinitas (approved August 2021). The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

City of Santa Barbara (approved December 2021). The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).

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From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: Re: Categorical Exclusion Notice
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: Spencer, Amrita@Coastal <Amrita.Spencer@coastal.ca.gov>
Sent: May 15, 2024 1:58 PM (UTC-04:00)

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Hi Amber,

I wanted to discuss this topic with others here before responding to your comments below. I now have their input which is included in this response.

The LCP IP section cited below means that the City is not precluded from requesting an amendment to the current cat ex or from requesting a new cat ex to exclude ADUs. Such a request would need to be approved by the Coastal Commission. But that IP section does not and cannot add new development categories to the City's Coastal Commission approved cat ex. Addition of new cat ex categories would require a ccc action on a cat ex amendment or on a new cat ex.

Likewise, whether or not ADUs as a cat ex development category would have potentially significant adverse effect must be determined via review of a categorical exclusion request by the Coastal Commission.

The City's approved categorical exclusion order does not include ADUs and so ADUs cannot be excluded under the approved cat ex.

Please let me know if you have further questions.

Thank you,

Meg Vaughn

Coastal Program Analyst

California Coastal Commission

meg.vaughn@coastal.ca.gov

From: Dobson, Amber CD <adobson@lagunabeachcity.net>

Sent: Monday, May 13, 2024 6:54 PM

To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Subject: RE: Categorical Exclusion Notice

Hi Meg,

I want to bring to your attention that 25.17.030 (B)(1) states that ADUs can be excluded. See below. This language was certified by Coastal.

(B)

Exceptions to Ministerial Review. Discretionary review may be required as follows.

(1)

Coastal Zone. ADUs that are not exempted or excluded under Chapter 25.07 (Coastal Development Permits) require issuance of a coastal development permit, subject to the noticing and appeal requirements in that chapter.

Thank you for sending the letter addressed to San Clemente. Their Cat Ex Order specifically refers to "appurtenant structures," while the City of Laguna Beach's does not. We understand that "Appurtenant" may be different from "Accessory."

The Cat Ex order was certified by the Commission and it was found that the category of development (Single family residential) in the approved Cat Ex areas has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. Therefore, it follows that development of ADUs also does not have any significant adverse effects on coastal resources (with ADUs being defined as accessory to the primary unit and are fundamentally part of single family residential development

according to HCD, or in other words, development of the ADU does not cause a single family to be re-classified as a duplex).

The ministerial ADUs are required to conform to 25.17 which includes protection of coastal resources: watercourse and blufftop setbacks, and replacement parking, all required outside of the context of a CDP, among other things. Because these requirements apply outside of a CDP and apply to all ministerially approved ADUs, we believe that adequate protection of coastal resources is provided under the Cat Ex order.

Thank you for your reconsideration.

-Amber

From: Dobson, Amber CD
Sent: Monday, May 6, 2024 1:31 PM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: RE: Categorical Exclusion Notice

Hi Meg,

So the determination is that no ADUs will qualify for the Exclusion because it does not fall under “single family residential development”? correct?

-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Thursday, May 2, 2024 1:29 PM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Subject: Re: Categorical Exclusion Notice

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

The City of Laguna Beach had a Categorical Exclusion Order (E-79-4) prior to certification of its LCP. Once the LCP was certified, that CEO was automatically terminated pursuant to ccc regulations Section 13249(b).

After certification of the LCP, the City submitted a new Categorical Exclusion request, which was ultimately approved (CEO E-93-1).

Please let me know if you have any further questions.

Thank you,

Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: Thursday, May 2, 2024 1:16 PM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: RE: Categorical Exclusion Notice

Hi Meg,

Can you also provide information on Categorical Exclusion Order E-79-4 ?

-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Sent: Thursday, May 2, 2024 10:37 AM

To: Dobson, Amber CD <adobson@lagunabeachcity.net>

Subject: Categorical Exclusion Notice

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

We received the Categorical Exclusion Notice for the project at 1673 Louise Street (Case No. ZPC 2023-1391).

We have also researched the status of the City's Categorical Exclusion Order No. E-93-1. That Order remains in effect as approved by the Coastal Commission May 13, 1993, and becoming fully effective upon receipt of the final maps in 1994. No changes to Categorical Exclusion Order No. E-93-1 since that approval have been approved by the Coastal Commission.

Regarding residential development, approved Categorical Exclusion Order E-93-1 excludes from coastal development permit requirements single family residential development in the eleven areas identified in the Order. The Order does not exclude the addition of Accessory Dwelling Units (ADUs) to existing single family residences. Therefore, the subject project (Case No. ZPC 2023-1391) does not qualify for a categorical exclusion.

Attached is a 2021 letter to the City of San Clemente on this subject, with attached CCC memos on the topic. Also attached is a more recent CCC memo (1/21/2022) on this topic.

Please let me know if you have any questions.

Thank you,

Meg Vaughn

Coastal Program Analyst

California Coastal Commission

meg.vaughn@coastal.ca.gov

From: Dulalia, Michelle CD </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1F0C571B815A4D9EBB9D55375F95350D-DULALIA, MI>
Subject: 1673 Louise Street
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Cc: Latham, Daniel CD <dlatham@lagunabeachcity.net>; Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: April 26, 2024 7:03 PM (UTC-04:00)
Attached: 1673 Louise Street - Notice of Action.pdf, 1673 Louise Street_ADU Cleared to BPC.pdf
Hello,

Attached is the Notice of Action and approved plans for the ADU proposal at 1673 Louise Street. Please let me know if any other documentations are required.

Thank you!

Best,

Michelle Dulalia

Senior Office Specialist - Planning Division
City of Laguna Beach (949) 497-0329

<https://www.lagunabeachcity.net/government/departments/community-development>



NOTICE OF ACTION

Categorical Exclusion Order E-93-1

Application Filing Date: April 24, 2024
Case No.: ZPC 2023-1391
Address: 1673 Louise Street | APN: 053-103-10
Applicant: Warren Hutcherson
Property Owner: Reinecke
City Staff: Daniel Latham, Associate Planner at dlatham@lagunabeachcity.net or (949) 464-6612

PROJECT DESCRIPTION: New 810 square-foot attached Accessory Dwelling Unit.

CEQA: This project is categorically exempt pursuant to California Environmental Quality Action Section 15303 - New Construction or Conversion of Small Structures, in that the project consists of construction and location of limited numbers of new, small structures.

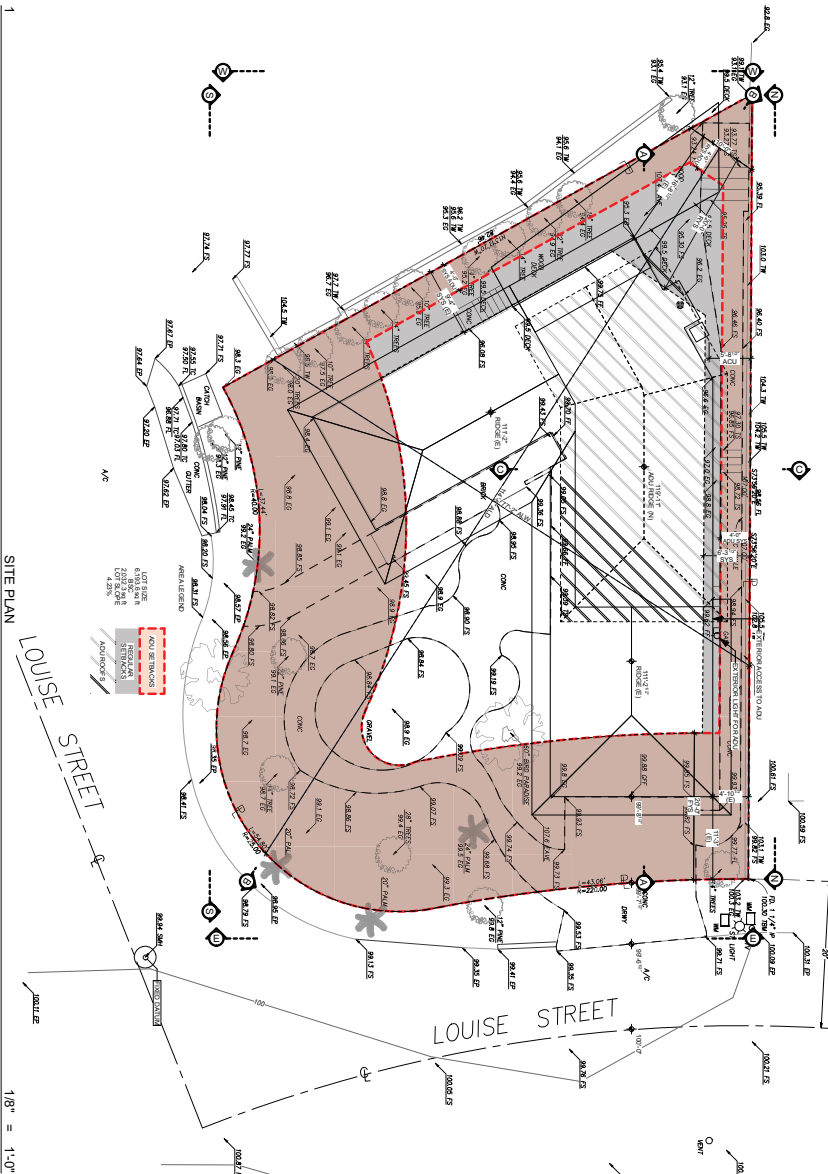
Other Entitlements: None

FINDINGS:

The project site falls within the mapped Categorical Exclusion Order area. The project falls within the development categories that do not require a Coastal Development Permit per the Categorical Exclusion Order. The project conforms to the City's certified Local Coastal Plan.

CONDITIONS OF APPROVAL:

1. This approval is not effective until 20 working days have elapsed following the Coastal Commission's receipt of notification.
2. The conditions of approval shall be and hereby are obligations of and binding upon the applicant and his/her heirs, successors, assigns, agents and representatives. The conditions shall constitute a covenant running with and binding the land in accordance with the provisions of California Civil Code Section 1468. Failure to comply with such conditions, and each of them, and any other related federal, state and local regulations may be grounds for revocation of the approval, in addition to other remedies that may be available to the City.
3. The applicable Certificate of Use and/or Certificate of Occupancy shall not be issued until City staff has verified compliance with all conditions of approval.
4. Prior to Building Permit issuance, the owner, his architect/designer/structural engineer, and contractor of the subject property shall sign an Affidavit of Plan Consistency, whereby the signees affirm that the structural plans are consistent with the Zoning Division-approved set of plans and any modification will require subsequent review and approval.
5. In the absence of specific provisions or conditions herein to the contrary, the application and all relevant plans and exhibits are incorporated and made a part of this approval. It is required that such plans and exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this approval has been granted shall not be substantially changed or substantially amended except pursuant to a subsequent approval as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.
6. The permittee shall defend, hold harmless and indemnify, at his/her/its expense, the City, the City Council and other City bodies and members thereof, officials, officers, employees, agents and representatives (collectively, the City) from and against any and all third-party claims, actions or proceedings to attack, set aside, void or annul this approval, or any associated determination made pursuant to the California Environmental Quality Act. This obligation shall encompass all costs and expenses incurred by the City in defending against any claim, action or proceeding, as well as costs, expenses or damages the City may be required by a court to pay as a result of such claim, action or proceeding.
7. Light trespass that results in glare is prohibited.
8. Outdoor lighting must be hooded, fully shielded, and aimed downward.



SITE PLAN

1/8" = 1'-0"

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 (949) 338-6905

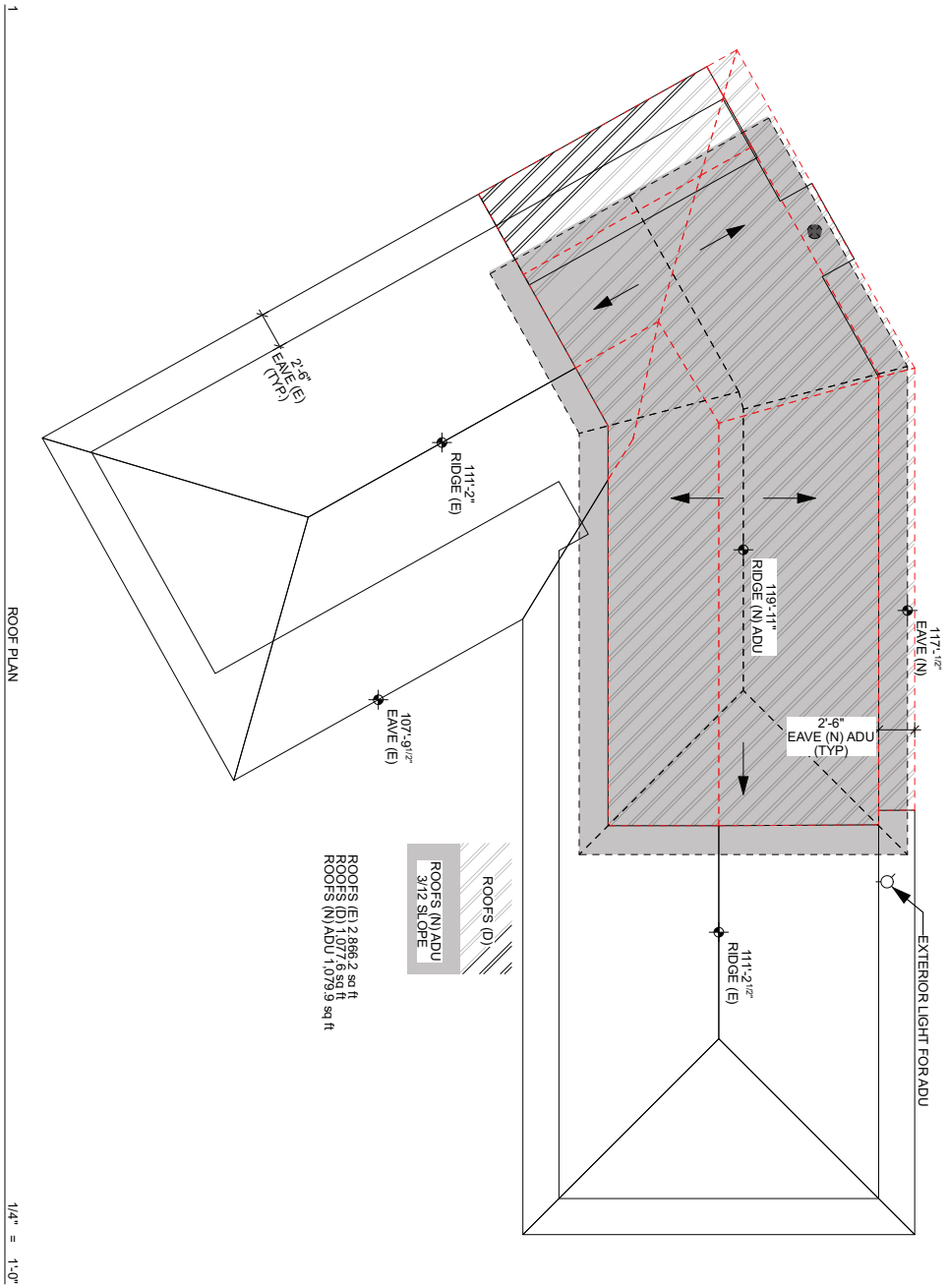
REVISIONS

SITE PLAN

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT:
 WARREN W. GRIFFIN
 DATE: 4/4/24
 CHECKED: WH
 JOB #: REINECKE

SHEET #:
A1



ROOF PLAN

1/4" = 1'-0"

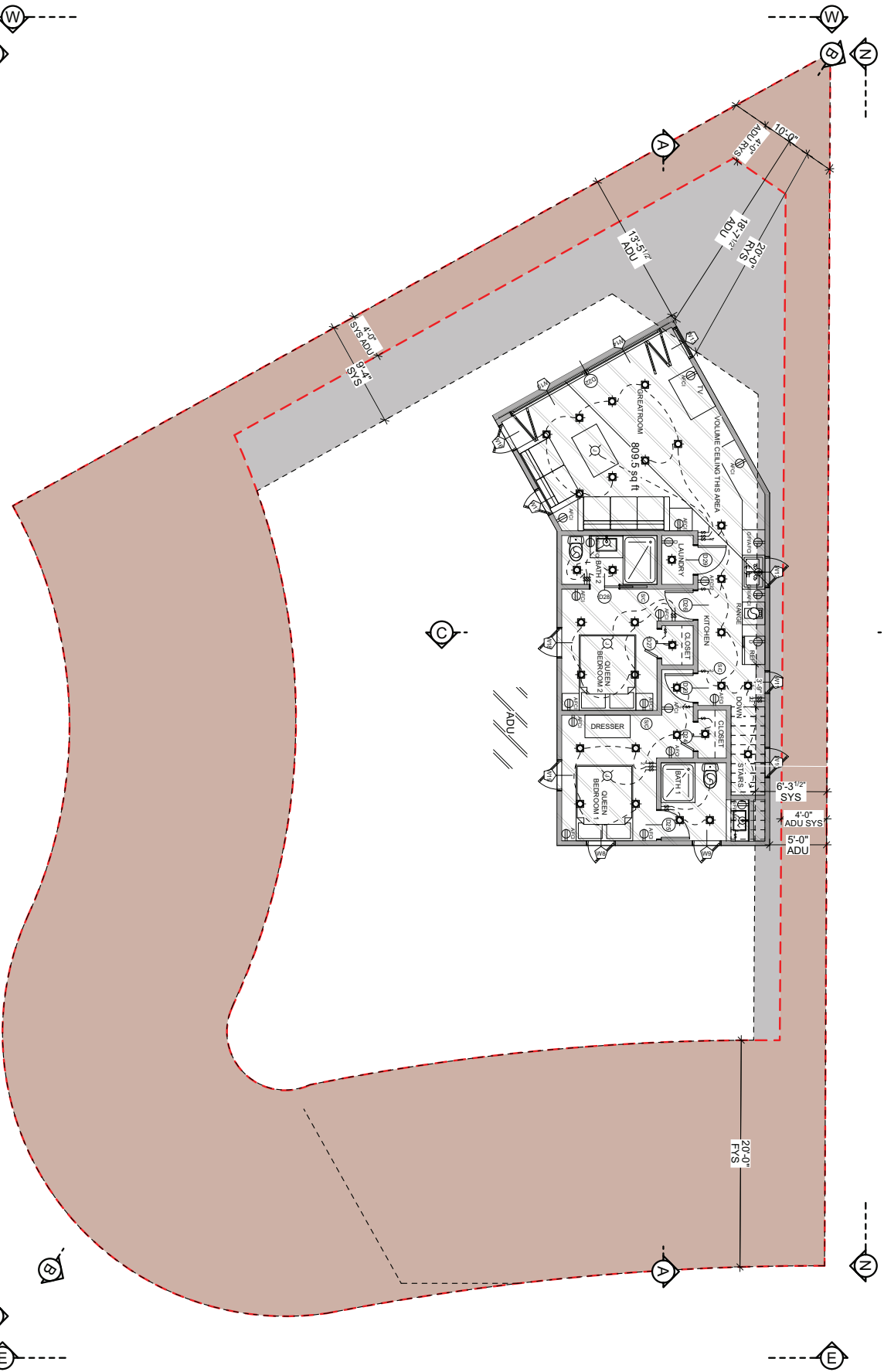
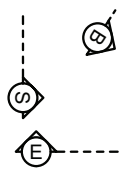
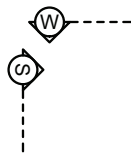
ROOFS (D)
 ROOFS (N) ADU
 3/12 SLOPE

ROOFS (E) 2,888.2 sq ft
 ROOFS (N) ADU 1,579.9 sq ft

SHEET # : A2	CHECKED: VJH JOB # : REINECKE	DATE: 4/4/24 DESIGN CONSULTANT: MARIBETH GIBSON	ADDITION AND REMODEL, ADU STEVE AND KAREN REINECKE 1673 A & 1673 B LOUISE ST. LAGUNA BEACH CA	ROOF PLAN	REVISIONS	3D CAD SERVICES 2435 LAGUNA CANYON RD. LAGUNA BEACH, CA. 92651 (949) 338-6905
					REVISIONS	

UPPER FLOOR PLAN

1/4" = 1'-0"



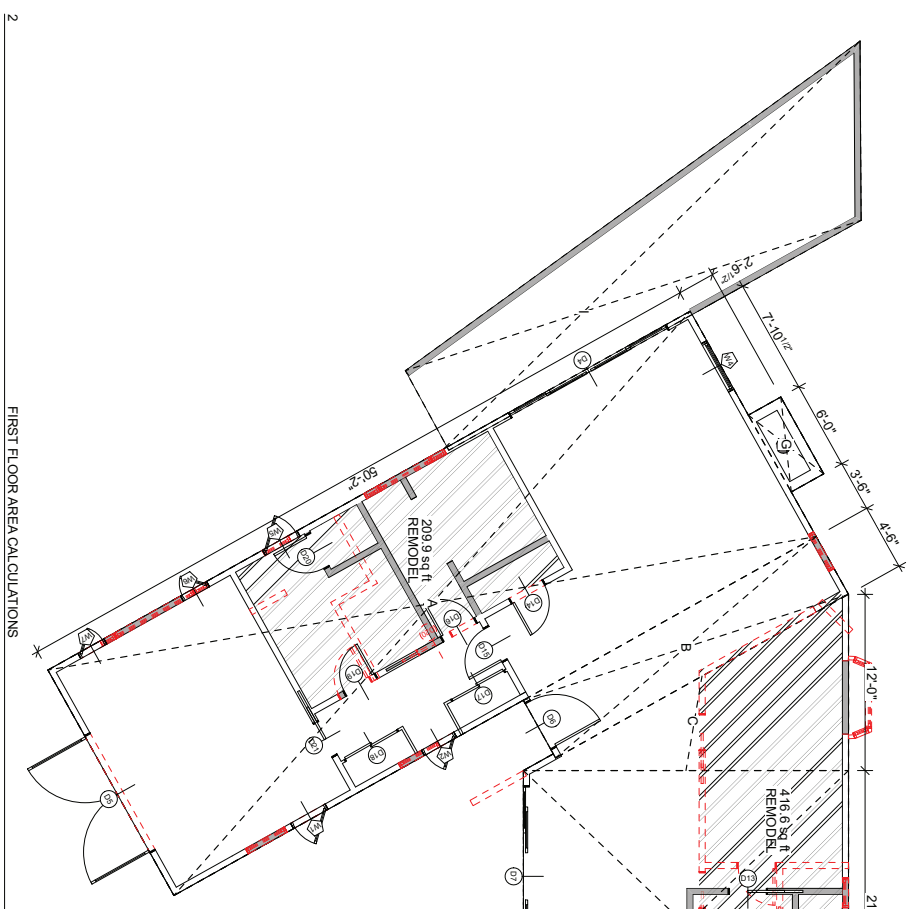
UPPER FLOOR PLAN

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

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SHEET #:
A4

DESIGN CONSULTANT:
 MARIANNE OLSEN
 DATE: **4/1/24**
 CHECKED: VJH
 JOB #: REINECKE



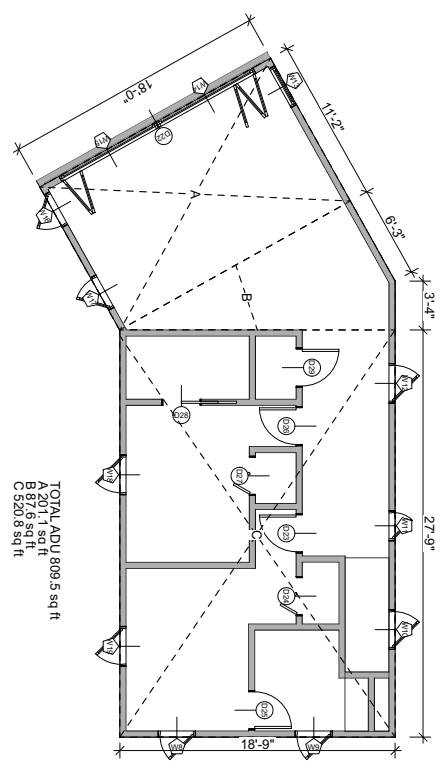
- F 883.3 sq ft
- B 103.3 sq ft
- C 130.0 sq ft
- E 25.6 sq ft
- F 15.2 sq ft
- G GARAGE CONVERSION 20.4 sq ft
- H GARAGE (N) 462.1 sq ft
- I DECK (E) 289.6 sq ft

TOTAL LIVING (E) 1,625.1 sq ft

TOTAL GARAGE (E) 502.5 sq ft

H GARAGE (N) 462.1 sq ft

I DECK (E) 289.6 sq ft

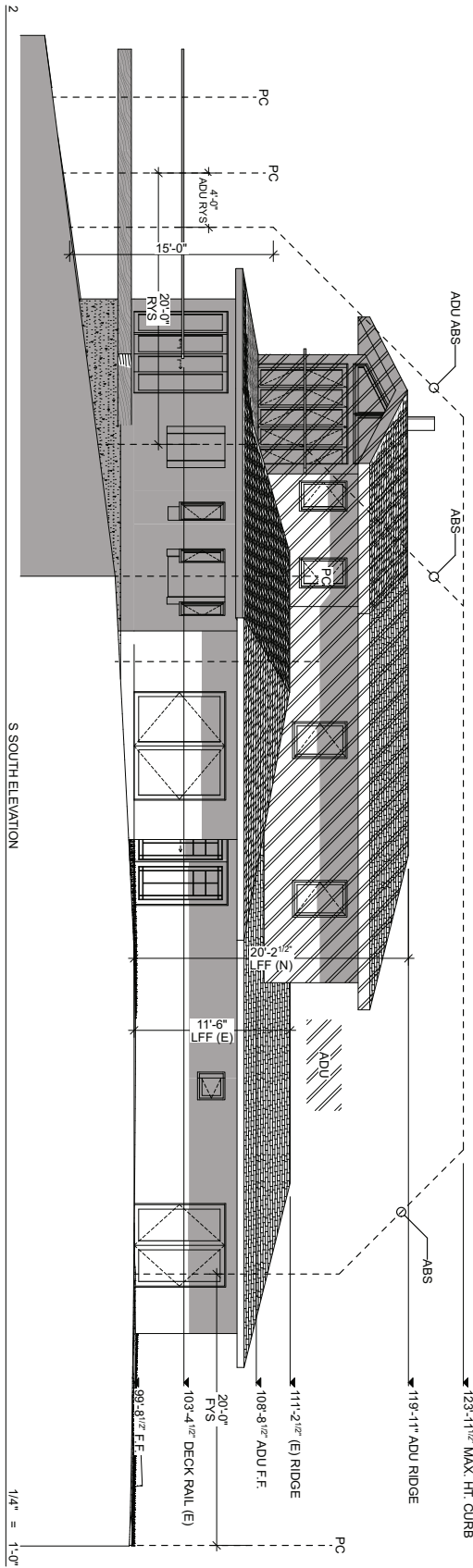
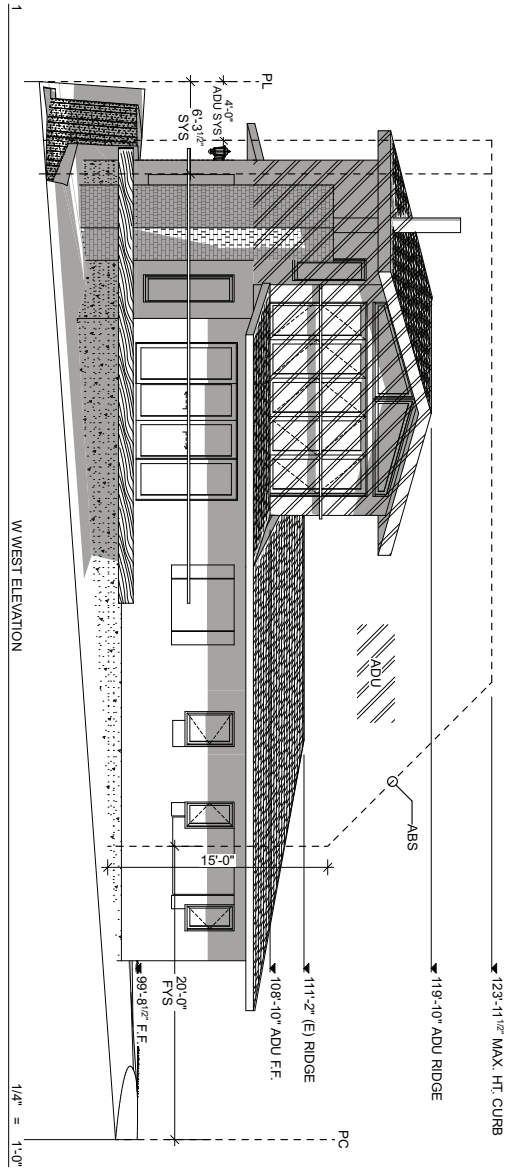


TOTAL ADU 809.5 sq ft

A 607.7 sq ft

B 191.8 sq ft

C 520.8 sq ft



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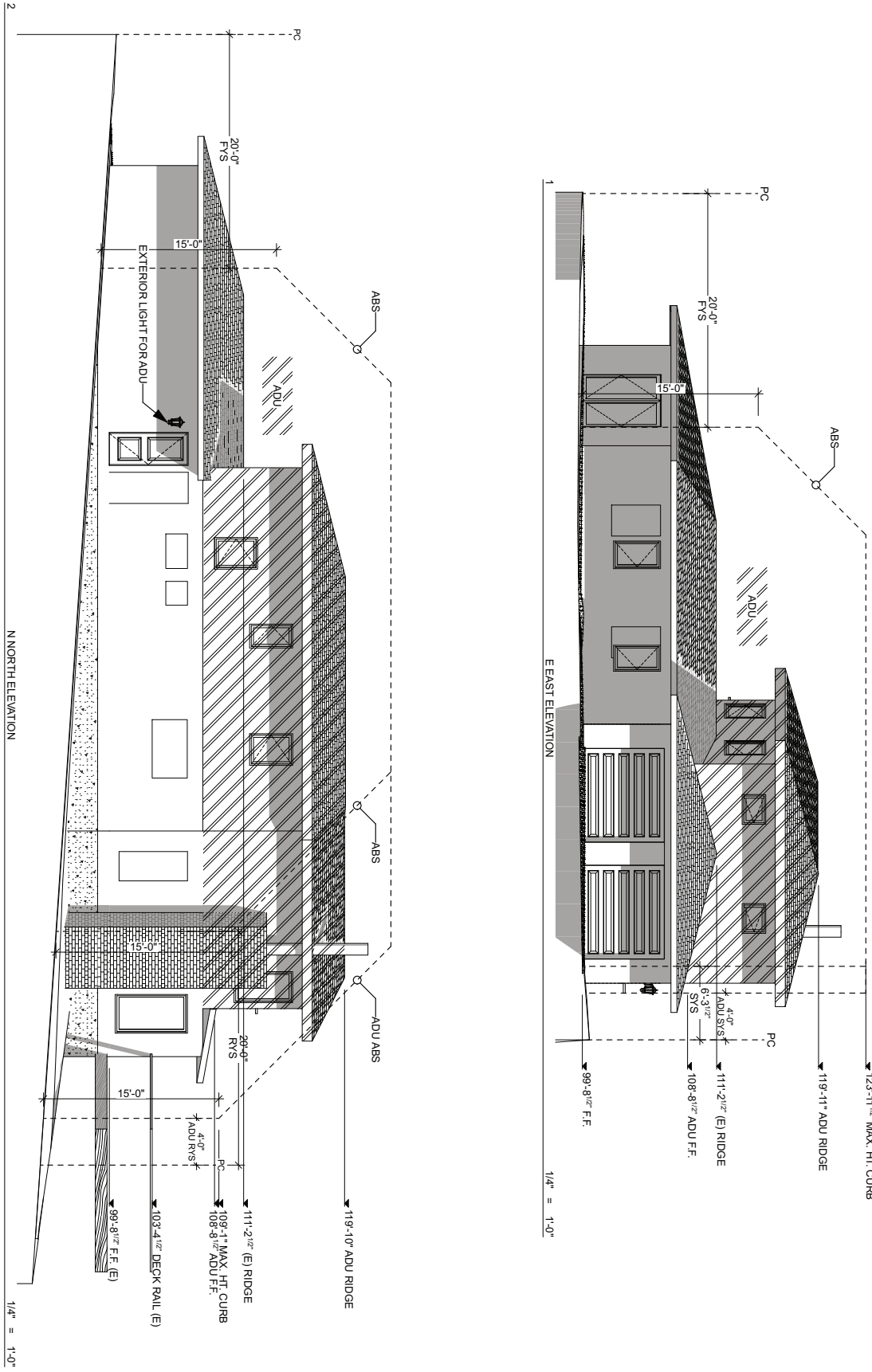
REVISIONS

ELEVATIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT
 MARIANNE HANSEN
 DATE: **4/4/24**
 CHECKED: WH
 JOB #: REINECKE

SHEET #:
A6



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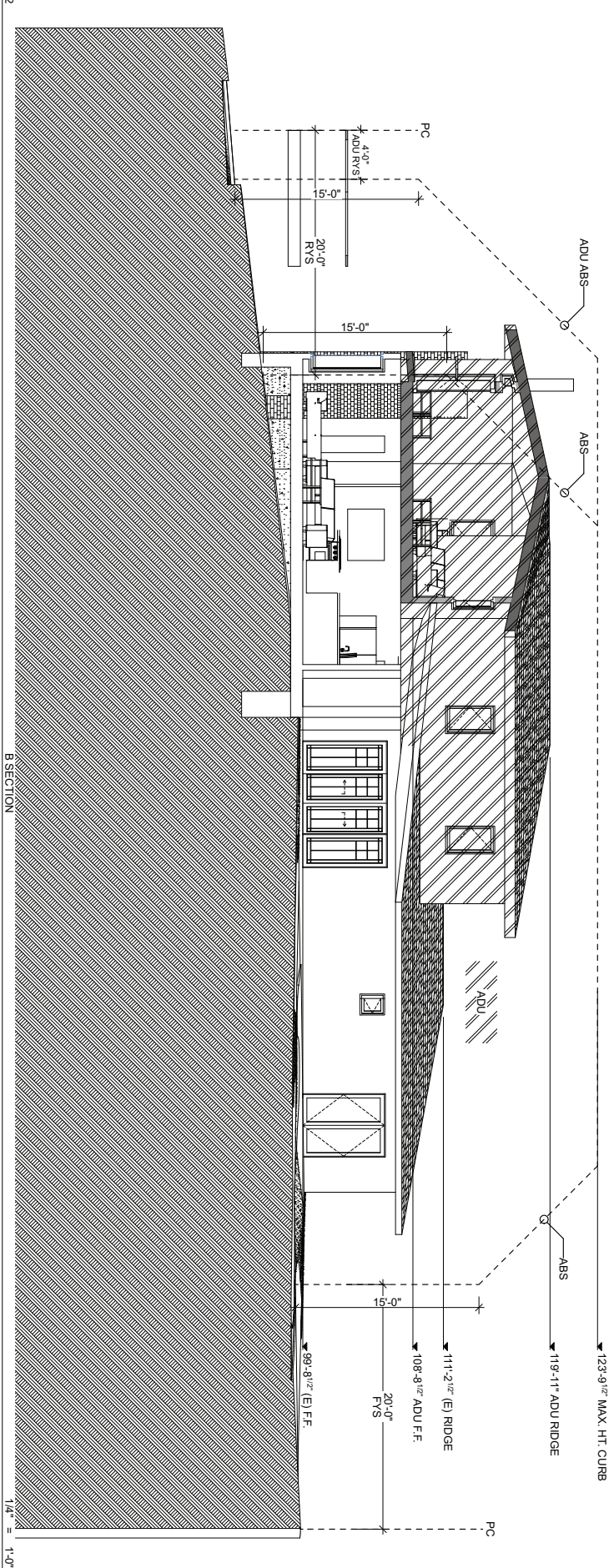
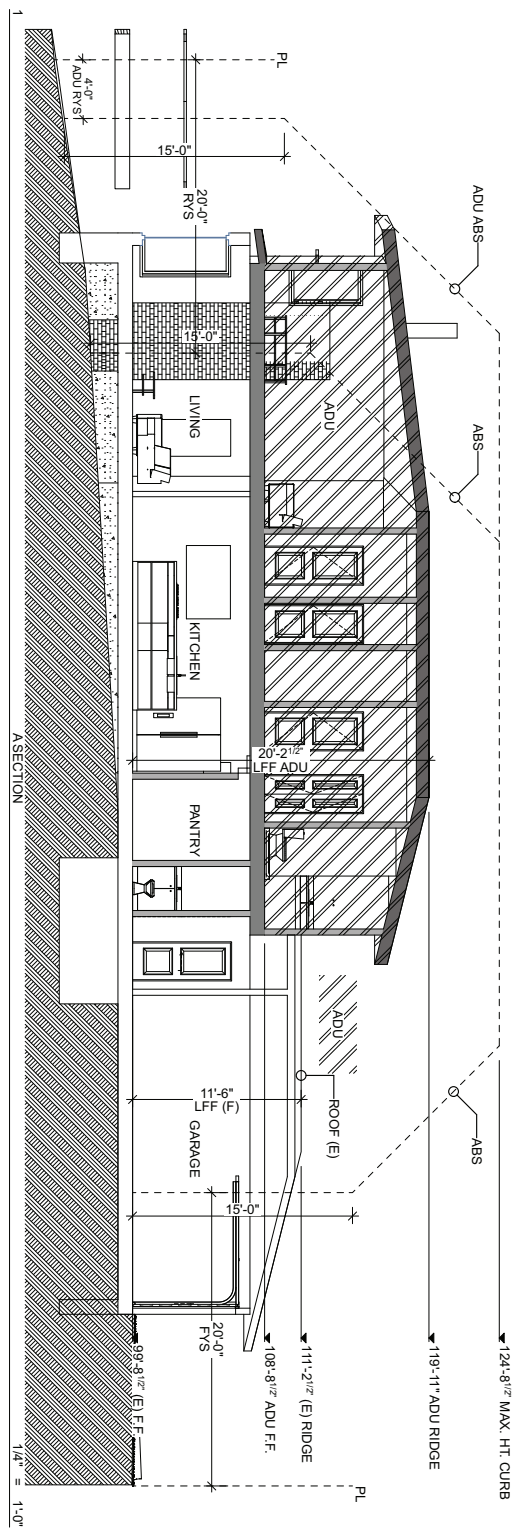
REVISIONS	

ELEVATIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT:
 MARIANNA OLSEN
 DATE: **4/4/24**
 CHECKED: VJA
 JOB #: REINECKE

SHEET #: **A7**

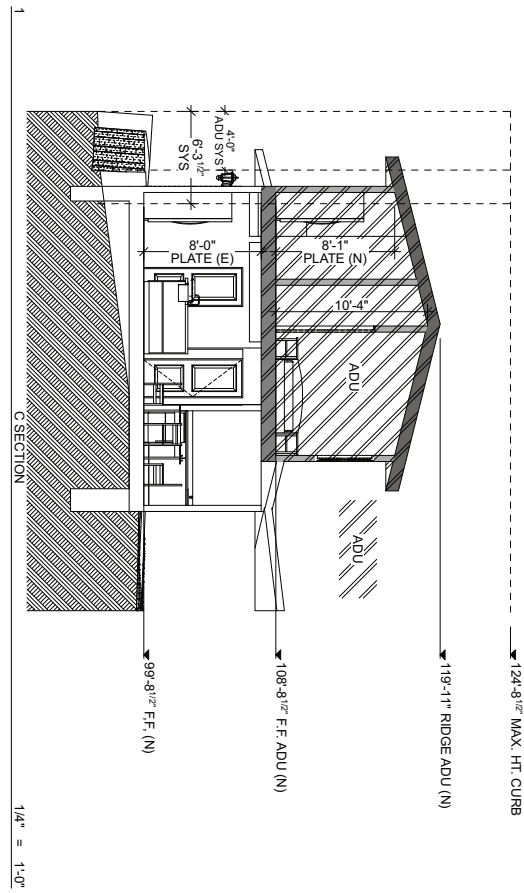


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 (949) 338-6905

SECTIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT
 MARIANNE GIBSON
 DATE: 4/4/24
 CHECKED: WH
 JOB #: REINECKE



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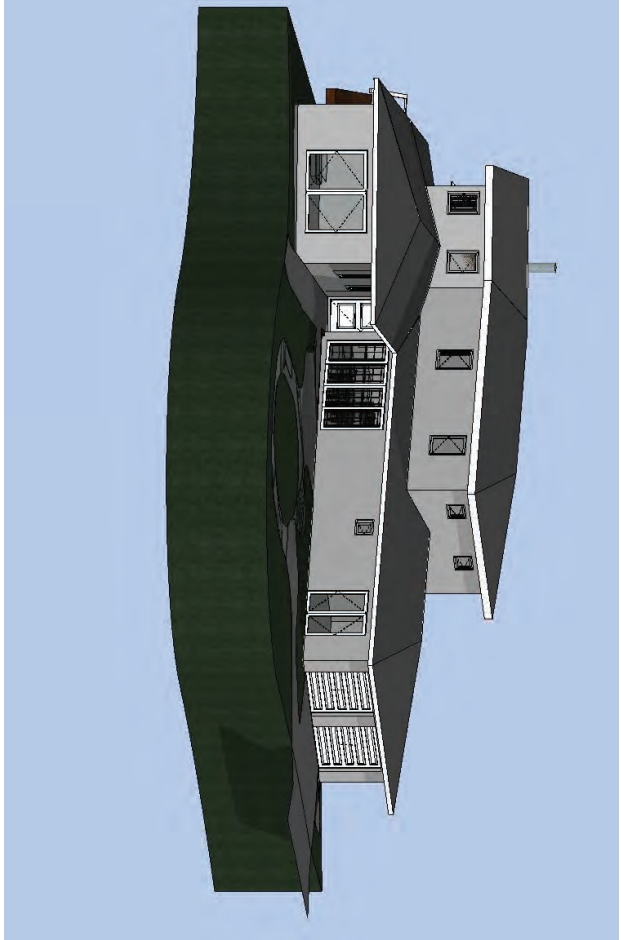
REVISIONS

SECTIONS

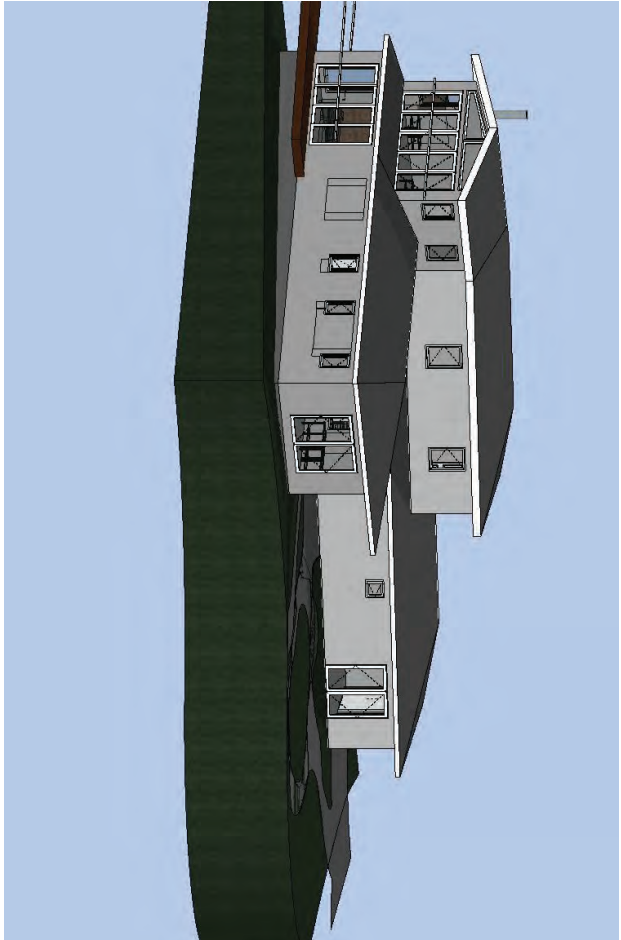
ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT
 MARIANNE OLSEN
 DATE: 4/4/24
 CHECKED: WH
 JOB #: REINECKE

SHEET # :
A9



30



30



30



30

<p>A10</p>	<p>SHEET # :</p>	<p>JOB # : REINECKE</p>	<p>CHECKED: VJH</p>	<p>DATE: 4/4/24</p>	<p>DESIGN CONSULTANT: MARTIN W. JOHNSON</p>	<p>ADDITION AND REMODEL, ADU STEVE AND KAREN REINECKE 1673 A & 1673 B LOUISE ST. LAGUNA BEACH CA</p>	<p>3D VIEWS</p>	<p>3D CAD SERVICES 2435 LAGUNA CANYON RD. LAGUNA BEACH, CA. 92651 (949) 338-6905</p>	
								<p>REVISIONS</p>	

DOOR SCHEDULE		WINDOW SCHEDULE			
NO	W X H Size	REMARKS	NO	W X H Size	REMARKS
D1	8'-0" x 7'-0"	GARAGE DOOR	W1	2'-6" x 4'-0"	CASEMENT
D2	2'-6" x 6'-8"	GARAGE DOOR	W2	2'-6" x 4'-0"	CASEMENT
D3	2'-6" x 6'-8"	EXTERIOR SOLID ADU ENTRY DOOR	W3	2'-0" x 2'-0"	CASEMENT
D4	12'-2" x 6'-10"	FOUR PANEL SLIDING	W4	3'-6" x 6'-2"	FIXED
D5	9'-0" x 6'-8"	DUAL FRENCH	W5	2'-6" x 3'-4"	CASEMENT
D6	3'-6" x 6'-8"	FRONT DOOR	W6	2'-0" x 3'-4"	CASEMENT
D7	12'-2" x 6'-10"	FOUR PANEL SLIDING	W7	2'-0" x 3'-4"	CASEMENT
D8	6'-0" x 6'-8"	DUAL FRENCH	W8	2'-6" x 2'-0"	CASEMENT
D9	2'-6" x 6'-8"	20 MINUTE FIRE DOOR	W9	2'-6" x 2'-0"	CASEMENT
D10	2'-6" x 6'-8"	INTERIOR SOLID	W10	2'-6" x 3'-8"	CASEMENT
D11	2'-6" x 6'-8"	INTERIOR SOLID	W11	2'-0" x 3'-8"	CASEMENT
D12	2'-6" x 6'-8"	INTERIOR SOLID POCKET	W12	2'-6" x 3'-8"	CASEMENT
D13	2'-6" x 6'-8"	INTERIOR SOLID	W13	3'-0" x 5'-0"	FIXED
D14	2'-6" x 6'-8"	INTERIOR SOLID	W14	7'-6" x 2'-10"	FIXED TRAPZOID
D15	2'-6" x 6'-8"	INTERIOR SOLID	W15	7'-6" x 2'-10"	FIXED TRAPZOID
D16	2'-6" x 6'-8"	INTERIOR SOLID	W16	2'-6" x 3'-6"	CASEMENT
D17	4'-0" x 6'-8"	INTERIOR SOLID SLIDING	W17	2'-6" x 3'-6"	CASEMENT
D18	4'-0" x 6'-8"	INTERIOR SOLID SLIDING	W18	2'-6" x 4'-0"	CASEMENT
D19	2'-4" x 6'-8"	INTERIOR SOLID	W19	2'-6" x 4'-0"	CASEMENT
D20	2'-6" x 6'-8"	INTERIOR SOLID			
D21	2'-6" x 6'-8"	INTERIOR SOLID			
D22	15'-0" x 6'-8"	BIFOLD FIVE PANEL			
D23	2'-6" x 6'-8"	INTERIOR SOLID			
D24	2'-6" x 6'-8"	INTERIOR SOLID			
D25	2'-6" x 6'-8"	INTERIOR SOLID			
D26	2'-6" x 6'-8"	INTERIOR SOLID			
D27	2'-6" x 6'-8"	INTERIOR SOLID			
D28	2'-6" x 6'-8"	INTERIOR SOLID POCKET			
D29	2'-6" x 6'-8"	INTERIOR SOLID			

NOTE: ALL WINDOW GLAZING SHALL BE DUAL GLAZED LOW E TEMPERED OUTSIDE FILLS OR THERMOPANE NOTED. ALL DOOR GLAZING SHALL BE THERMOPANE AND PERMANENT LABELS. SEE T-34 SHEETS FOR U-FACTORS AND SHGC.

NOTE: ALL DOOR GLAZING SHALL BE DUAL GLAZED LOW E TEMPERED BOTH SIDES. ALL DOOR GLAZING MUST HAVE TEMPORARY AND PERMANENT LABELS. SEE T-34 SHEETS FOR U-FACTORS AND SHGC.

NOTE: Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements. Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements.

R337.8.2.1

1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section R308 Safety Glazing, or
2. Be constructed of glass block units, or
3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
4. Be tested to meet the performance requirements of SFM Standard 12-7A-2.

AND

708A.2.1

Exterior windows and exterior glazed door assembly requirements. Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements:

1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section 2408 Safety Glazing, or
2. Be constructed of glass block units, or
3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
4. Be tested to meet the performance requirements of SFM 12-7A-2.

NOTE: All Exterior doors shall comply with one of the following requirements.

R337.8.3

1. The exterior surface or cladding shall be of noncombustible or ignition-resistant material, or
2. Be constructed of glass block units, or
- 2.1. Slates and sills shall not be less than 1-3/8 inches thick.
- 2.2. Raised panels shall not be less than 1-1/4 inches thick, except for the exterior perimeter of the raised panel that tapers to a torque not less than 3/8 inch thick.
3. Shall have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 252.
4. Shall be tested to meet the performance requirements of SFM Standard 12-7A-1.

NOTE: Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements.

R337.8.2.1

1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section R308 Safety Glazing, or
2. Be constructed of glass block units, or
3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
4. Be tested to meet the performance requirements of SFM Standard 12-7A-2.

AND

708A.2.1

Exterior windows and exterior glazed door assembly requirements. Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements:

1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section 2408 Safety Glazing, or
2. Be constructed of glass block units, or
3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
4. Be tested to meet the performance requirements of SFM 12-7A-2.

DESIGN CONSULTANT: MARTIN W. JOHNSON
DATE: 4/4/24
CHECKED: WH
JOB #: REECKE
SHEET #:
A11

SCHEDULES	
<p>ADDITION AND REMODEL, ADU STEVE AND KAREN REINECKE 1673 A & 1673 B LOUISE ST. LAGUNA BEACH CA</p>	
REVISIONS	

3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

EROSION CONTROL STANDARDS

These notes are to be included on all plans where erosion control is required

Erosion control system

1. The focus of cut and fill slopes and exposed soils shall be prepared and maintained as all times to control erosion in accordance with these standards. Where cut slopes are not subject to erosion control, the contractor shall submit a plan for erosion control to be approved by the Building Official. Earth shall be prepared during foundation excavation and be maintained in accordance with these standards until construction is complete.
2. Where temporary, temporary and/or permanent erosion control devices or methods, as approved by the Building Official, shall be employed to control erosion and provide safety. Sediment shall be contained on-site.
3. No filling or grading work will be allowed on any building or grading site, under permit, unless an erosion control system has been approved and installed by the Building Official.
4. Paved streets, sidewalks, and other improvements shall be maintained in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition.
5. The soil engineer or other qualified individual who prepared the grading or building plan shall be responsible for inspecting and maintaining the erosion control devices. An inspection report shall be prepared and submitted to the Building Official. The report shall include a description of the erosion control devices installed, the location of the devices, and the date of the inspection. The report shall also include a description of the erosion control devices installed, the location of the devices, and the date of the inspection.
6. A permit assigned erosion control plan shall be installed in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition. Erosion control devices shall be installed in a neat and clean condition.
7. Equipment and other temporary work shall be made available at all times. Necessary equipment shall be available at all times. Necessary equipment shall be available at all times. Necessary equipment shall be available at all times.
8. Erosion protection shall consist of temporary slope stabilization methods or the effective planting of vegetation. The erosion control plan shall be approved by the Building Official. The erosion control plan shall be approved by the Building Official. The erosion control plan shall be approved by the Building Official.
9. The erosion control provisions shall take into account drainage problems during the current and future phases of grading or building.
10. Erosion control shall be maintained at all times. Erosion control shall be maintained at all times. Erosion control shall be maintained at all times. Erosion control shall be maintained at all times.
11. Graded areas shall be protected from the loss of topsoil at the conclusion of each working day. Damage shall be repaired as directed by the Building Official.

Erosion control plans

1. Erosion control measures shall be implemented each year for projects under a grading or building permit. The erosion control plan shall be approved by the Building Official. The erosion control plan shall be approved by the Building Official. The erosion control plan shall be approved by the Building Official.
2. After each rainstorm, all soil shall be removed from ditches, berms and existing basins and replaced with clean, dry, topsoil water from the storm drains. The erosion control plan shall be approved by the Building Official. The erosion control plan shall be approved by the Building Official. The erosion control plan shall be approved by the Building Official.
3. After each rainstorm, the performance of the erosion control system shall be evaluated and record kept as required by the Building Official.
4. Devices shall not be moved or modified without the approval of the Building Official.
5. The contractor shall be responsible and shall take necessary precautions to prevent public trespasses who may be responsible for water control.
6. The contractor and permittee or project owner shall be responsible for continual maintenance of the erosion control system. The erosion control system shall be maintained in a neat and clean condition. The erosion control system shall be maintained in a neat and clean condition. The erosion control system shall be maintained in a neat and clean condition.
7. In the event the Building Official must cause emergency maintenance work to be done, the contractor shall be responsible for the cost of the work. The erosion control system shall be maintained in a neat and clean condition. The erosion control system shall be maintained in a neat and clean condition. The erosion control system shall be maintained in a neat and clean condition.

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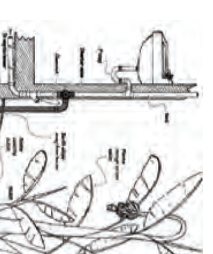
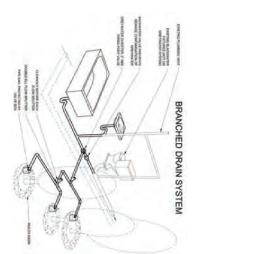
GDM WATER RUN OFF

City water includes wastewater from buildings, streets, sidewalks, curbs, parking lots, and other areas. Wastewater from buildings, streets, sidewalks, curbs, parking lots, and other areas. Wastewater from buildings, streets, sidewalks, curbs, parking lots, and other areas.

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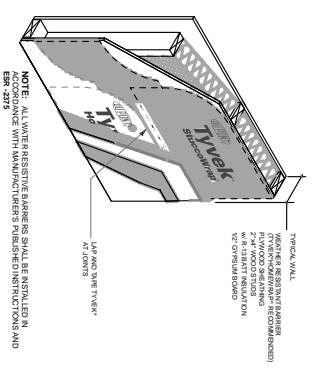
3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

REVISIONS

City Notes

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

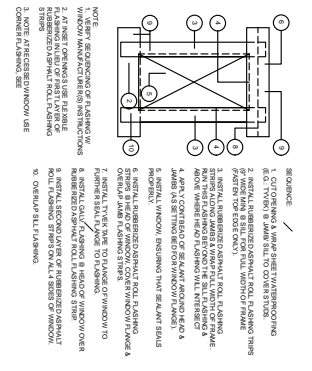
DESIGN CONSULTANT:
 MARIANNE OLSEN
 DATE: 4/4/24
 CHECKED: V.H.
 JOB #: RENECKE
 SHEET #: **GN2**



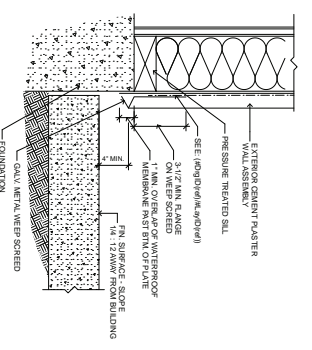
NOTE: ALL WATER RESISTIVE BARRIERS SHALL BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S SUBMITTED INSTRUCTIONS AND ESR-2275

WALL ISOMETRIC

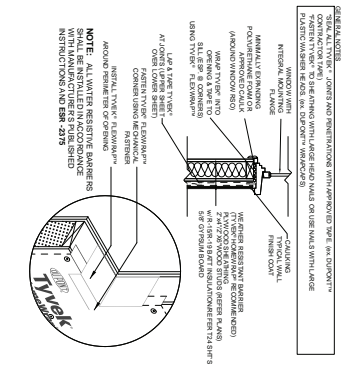
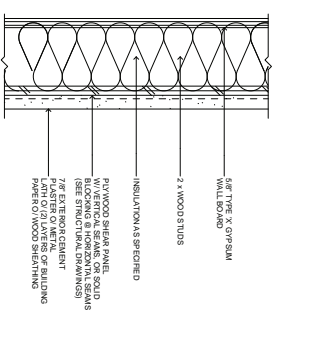
WALL FLASHING @ EXT. OPENING, TYP.



EXT. WALL @ PAVING

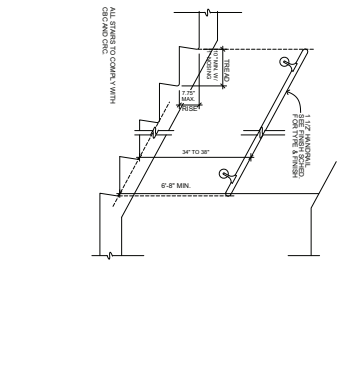


EXT. WALL W/BD. & BATTEN, TYP.

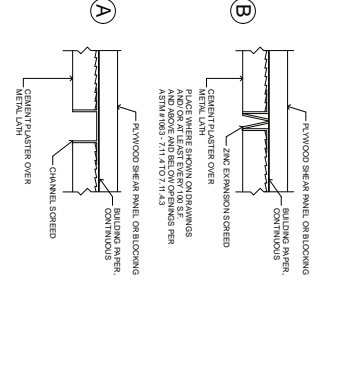


TYPICAL SILL/WALL DETAIL

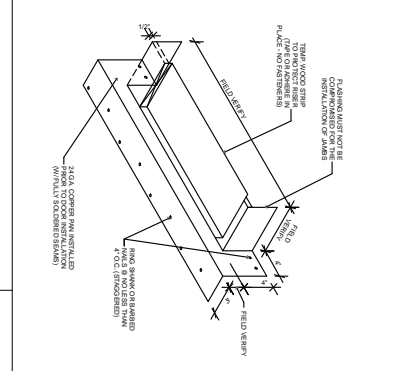
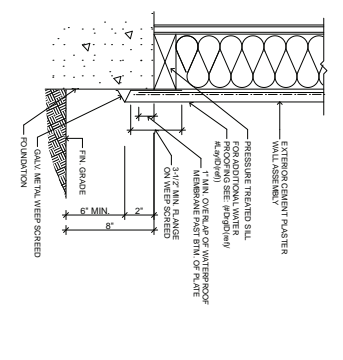
TYPICAL HANDRAIL DETAIL



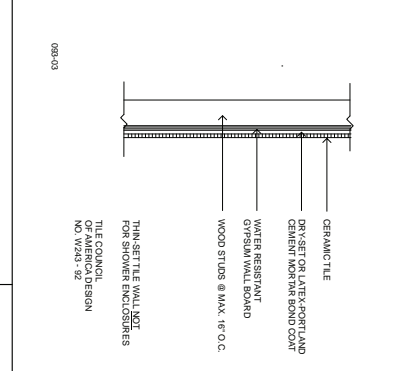
PLASTER CONTROL JOINT



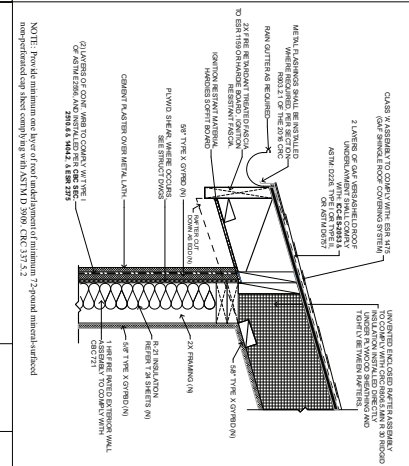
EXTERIOR WALL @ GRADE



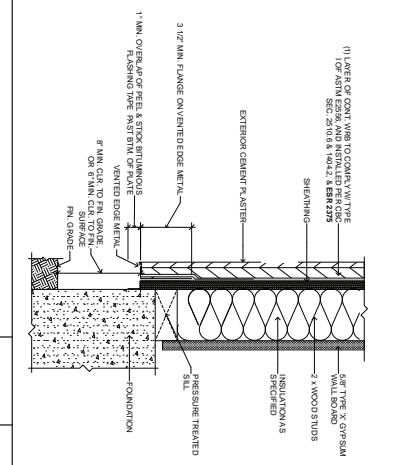
FLASHING @ EXT. SILLS, TYP.



TILE WALL



EXT. WALL AND EAVE ASSEMBLY, TYP.



EXT. WALL W/BD. & BATTEN, TYP.

3D CAD SERVICES
2435 LAGUNA CANYON RD.
LAGUNA BEACH, CA. 92651
(949) 338-6905

REVISIONS

ADDITION AND REMODEL, ADU
STEVE AND KAREN REINECKE
1673 A & 1673 B LOUISE ST.
LAGUNA BEACH CA

DESIGN CONSULTANT
MARKER HAN GIBSON

DATE: **4/4/24**

CHECKED: WH

JOB #: REINECKE

SHEET #: **MTD**

MTD

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Wednesday, April 24, 2024 10:26 AM
To: Dobson, Amber CD
Cc: Jane Abzug
Subject: Re: Laguna Beach Categorical Exclusion

CAUTION - EXTERNAL SENDER.

Thanks for the explanation.

I don't think I will be able to devote too much time to this until this Friday afternoon. But I will try to get back to you on this as soon as I can. It does take a little while to get through all the past agendas though, unfortunately.

take care,

Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: Wednesday, April 24, 2024 10:17 AM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: RE: Laguna Beach Categorical Exclusion

Thank you, Meg!

We have been processing development under the CatEx for single family residential, as it is reflected in the emailed document, and will continue to do so unless we hear differently from you. We are processing ADUs consistent with the Single Family residential criteria as outlined. There is a particularly controversial ADU that we are going to process this week and the residents in the area have objected to the second story ADU, although it does not present any conflicts with coastal resources. You may or may not hear from them. We were hoping to have a response today, but we understand that is not possible. Please let us know if you have any updates next week.

-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Wednesday, April 24, 2024 9:58 AM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: Re: Laguna Beach Categorical Exclusion

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

The LCP verification was separate from the categorical exclusion order. They are two separate documents and two separate CCC actions.

To confirm the status of the cat ex, I plan to go through the past CCC agendas to see whether any action was ever taken on an LGB cat ex subsequent to the cat ex attached to your email (which is a similar process to the LCP cert verification). That will take some time, and it will depend whether there have been subsequent actions where the file(s) will need to be ordered. But I just need to get this in the queue. I will try to set aside sometime this week to get started on this. It's just a matter of juggling deadlines (as you know too well).

I did speak with Karl, Shannon, and Amrita to see whether they had any recollections about the LGB cat ex. But they didn't. I don't remember any changes to it, but that doesn't mean there weren't.

Do you have a date by which you need this response?

Thanks,
Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>

Sent: Wednesday, April 24, 2024 9:24 AM

To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Cc: Jane Abzug <Jane.Abzug@bbklaw.com>

Subject: RE: Laguna Beach Categorical Exclusion

Good Morning Meg,

Do you think that the entirety of the documents were provided during the LCP verification process in 2021-2022? I assume these records are in hard copy and that it will take you some time to find any related documents.

I appreciate any guidance you have.

Thank you so much,
-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Sent: Monday, April 22, 2024 2:06 PM

To: Dobson, Amber CD <adobson@lagunabeachcity.net>

Cc: Jane Abzug <Jane.Abzug@bbklaw.com>

Subject: Re: Laguna Beach Categorical Exclusion

[**NOTICE:** This message originated outside of City of Laguna Beach -- **DO NOT CLICK on links or open attachments** unless you are sure the content is safe.]

Hi Amber,

I will look in to this and get back to you.

Thanks,
Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>

Sent: Monday, April 22, 2024 2:01 PM

To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Cc: Jane Abzug <Jane.Abzug@bbklaw.com>

Subject: Laguna Beach Categorical Exclusion

Hi Meg,

We are applying the 1994 Exclusion order for new single family homes, consistent with the documents attached here. Can you confirm whether any more recent orders / letters have been issued regarding this particular exclusionary order, or if the order was amended at any point?

Thank you,

AMBER DOBSON

CITY OF LAGUNA BEACH

Planning Manager

Community Development Dept.

505 Forest Avenue

Laguna Beach, CA 92651

p. 949.497.0362 | e. adobson@lagunabeachcity.net

Exhibit F



**PACIFIC LEGAL
FOUNDATION**

July 10, 2024

Mr. David Contreras
Community Development Director
City of Laguna Beach, California

Via email: dcontreras@lagunabeachcity.net

Mr. Dave Kiff
City Manager
City of Laguna Beach, California

Via email: dkiff@lagunabeachcity.net

Re: CDP Exemption for Attached ADU Project at 1673 Louise Street (APN 053-103-10)

Dear Mr. Contreras and Mr. Kiff,

My name is David Deerson, and I represent Steven and Karen Reinecke in connection with their proposal to construct an Accessory Dwelling Unit (ADU) attached to their single-family residence at 1673 Louise Street in Laguna Beach.

As you may know, the Reineckes submitted their planning application in July, 2023. Because their proposed ADU is directly attached to their primary residence, and because the property is subject to Categorical Exclusion Order E-93-1, the Reineckes understood that their project would not require a Coastal Development Permit (CDP). This was based on information then available on the City's website and confirmed by staff in an email from Amber Dobson on April 8. Pursuant to this mutual understanding, the Reineckes received a stamped approval from the Planning Division on May 7, 2024. They were then surprised to learn from Mr. Latham, two weeks later, that the CDP exemption was "rejected by Coastal" (i.e., the California Coastal Commission, or CCC) and that the project must undergo CDP approval procedures. We believe this determination was made in error, and we therefore respectfully urge you find that the project is exempt from the CDP requirement and allow the project to proceed under Laguna Beach's ADU Ordinance as governed by California's ADU law codified at Cal. Gov't Code § 66310, *et seq.*

Order E-93-1 exempts single-family development within the exclusion zone, which includes the Reineckes' property. Moreover, the Coastal Act provides that no CDP shall

Mr. David Contreras
Mr. Dave Kiff
July 10, 2024
Page 2

be required for “[i]mprovements to existing single-family residences.”¹ Under CCC regulations, where there is an existing single-family residence, “[a]ll fixtures and other structures directly attached” are to be considered a part of that residential structure.² As the Court of Appeal recently decided, “[u]nder the Coastal Commission definition, directly attached structures, including ADUs, are exempted from the types of developments that require CDPs under the Coastal Act.”³ In other words, Order E-93-1 and the Coastal Act itself provide independent and overlapping provisions that exempt the Reineckes’ attached ADU from the need to obtain a CDP.

The Coastal Commission’s advice to the contrary is not binding on the City. While the Commission may be asked for an interpretation of a categorical exclusion order, such interpretation must be made pursuant to formal procedures including a hearing.⁴ More than nonbinding, the interpretation offered by the Commission here also lacks persuasive value, especially because it is at odds with several recent instances of E-93-1’s implementation. For example, the City approved many other additions to existing single-family dwellings, including attached ADUs, under the exclusion order within the last year.⁵ The Reineckes presume that the Commission was notified of these exemptions as required by regulations,⁶ but they are not aware that any were subsequently rejected on the grounds now cited for rejecting the Reineckes’ exemption.

Similarly nonbinding is the 2022 guidance memorandum issued by the Commission, and cited in an email from Mr. Kiff, which recommends that ADUs – even attached ADUs – should not be included in the exemption provisions of proposed LCP amendments. Like the Commission’s informal interpretation of Order E-93-1, this guidance too is inconsistent with recent policy. Indeed, it openly contradicts several of the Commission’s earlier guidance memoranda concerning the same subject. Given “the Commission’s inconsistent positions on the issue within a relatively short timeframe,” the Court of Appeal recently refused to afford judicial deference to the Commission’s 2022 memorandum.⁷ The memorandum is also unpersuasive on its substantive

¹ Pub. Res. Code § 30610(a).

² Cal. Code Regs. tit. 14, § 13250(a)(1).

³ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 972.

⁴ Cal. Code Regs. tit. 14, §§ 13245, 13231.

⁵ *See, e.g.*, 950 Baja Street, APN 644-437-12, Design Review 23-1274 (new single-family residence with attached ADU); 1101 Miramar Street, APN 644-430-11, Design Review 23-1511 (upper-level additions to an existing single-family dwelling); 675 Oak Street, APN 644-191-22, Design Review 23-1590 (same).

⁶ Cal. Code Regs. tit. 14, § 13248.

⁷ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 969 n.9.

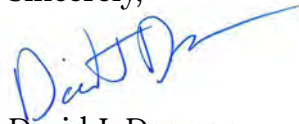
Mr. David Contreras
Mr. Dave Kiff
July 10, 2024
Page 3

reasoning. It reflects the Commission's opinion that an ADU is not an improvement to an existing residence but is instead "the creation of a new residence." Yet the State's ADU law explicitly contemplates that, at least for some purposes, an ADU shall not be considered a new residential use.⁸ And ADUs cannot be sold separately from the primary residence except under very narrow circumstances not applicable here, further indicating that the Reineckes' ADU is an improvement, not an entirely new residence.⁹

California faces a severe housing crisis, with significant consequences for the State's economy, its environmental goals with respect to greenhouse gas emissions, and the welfare of its citizens.¹⁰ To address these concerns, the Legislature has established a mandatory framework for owners of existing single-family homes to obtain by-right permits to construct ADUs. By pursuing their proposed project, the Reineckes are taking part in a statewide effort to combat California's housing shortage and to help provide an "essential component" of the State's housing supply.¹¹ Because this project is exempt from the need to obtain a CDP under Exclusion Order E-93-1 and under the Coastal Act itself, we respectfully request that you approve their application and permit their project on a ministerial basis under the standards provided in Laguna Beach's ADU Ordinance and as governed by the State's ADU law.

Please indicate your response as soon as is practicable. Due to rising construction costs, the matter is time sensitive.

Sincerely,



David J. Deerson
Counsel for Steven and Karen Reinecke
Pacific Legal Foundation
DDeerson@pacificlegal.org
Telephone: (916) 419-7111

cc: Mr. Daniel Latham, Associate Planner
City of Laguna Beach, California
Ms. Amber Dobson, Planning Manager
City of Laguna Beach, California

⁸ See Gov't Code § 66324(b) (an ADU is not a new residential use for purposes of calculating utility connection fees and capacity charges).

⁹ See Gov't Code § 66341.

¹⁰ Gov't Code § 66310(e), (f).

¹¹ Gov't Code § 66310(h).

Exhibit G

Chris Sears

From: David J. Deerson
Sent: Thursday, August 8, 2024 2:33 PM
To: EDM
Subject: FW: City of Laguna Beach -- 1673 Louise Street, Attached Accessory Dwelling Unit
Attachments: Letter to Mr. Deerson 8-8-24-c1.pdf

David J. Deerson | Attorney
Pacific Legal Foundation
555 Capitol Mall, Ste. 1290 | Sacramento, CA 95814
916.419.7111



From: Wendy Hoffman <Wendy.Hoffman@bbklaw.com>
Sent: Thursday, August 8, 2024 1:58 PM
To: David J. Deerson <DDeerson@pacificlegal.org>
Cc: dkiff@lagunabeachcity.net; dcontreras@lagunabeachcity.net; Megan Garibaldi <Megan.Garibaldi@bbklaw.com>; Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: City of Laguna Beach -- 1673 Louise Street, Attached Accessory Dwelling Unit

Counsel,

Please see attached letter on behalf of the City of Laguna Beach.

Please contact our office if you are unable to open the attachment.

Thank you.



BBK
BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

Wendy Hoffman
Legal Practice Assistant
wendy.hoffman@bbklaw.com
T: (310) 220-2168
bbklaw.com | [in](#) [ig](#)



Jane Abzug
(949) 529-2093
Jane.Abzug@bbklaw.com

August 8, 2024

David Deerson, Esq.
Pacific Legal Foundation
DDeerson@pacificlegal.org

Re: *City of Laguna Beach -- 1673 Louise Street, Attached Accessory Dwelling Unit*

Dear Mr. Deerson:

I am writing on behalf of the City of Laguna Beach (“City”) in response to your letter dated July 10, 2024 on behalf of your clients, Steven and Karen Reinecke, in connection to their proposal to construct an Accessory Dwelling Unit (“ADU”) attached to their single family residence at 1673 Louise Street in Laguna Beach (the “Property”). (Enclosed is a copy of your July 10, 2024 letter.)

As a foundational matter, development in the Coastal Zone requires a coastal development permit (“CDP”) or a determination that the development is exempt or otherwise excluded from the CDP requirements. (Laguna Beach Municipal Code (“LBMC”) Section 25.07.004.) As discussed further below, the Coastal Commission has directed the City that it cannot rely on the enclosed exclusionary order, Exclusionary Order E-93-1 (the “Exclusionary Order”), for ADUs. (Enclosed is a copy the Exclusionary Order.) Accordingly, the proposed development requires both (1) a permit under the City’s ADU ordinance (LBMC Chapter 25.17) and (2) a permit under the City’s CDP ordinance (LBMC Sections 25.17.030(B)(1) and 25.17.090; LBMC Section 25.07.008(A)(1)(a)). In other words, the City’s ADU ordinance is subject to the Coastal Act, consistent with the state ADU statute. (See Gov. Code Section 66329.)

On April 8, 2024, the City approved the ADU permit for your clients’ attached ADU. However, your clients need both an ADU permit and a CDP permit.

As discussed with your clients in a meeting on May 30, 2024, the Zoning Code allows the Community Development Director to classify development as “minor development” for purposes of waiving a public hearing for a CDP when the following requirements are met:

1. Development is consistent with the certified Local Coastal Program;
 2. Development requires no discretionary approvals other than a coastal development permit; and
 3. Development has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
- (LBMC Section 25.07.013(A) and (B)(1).)

Upon such determination, the Community Development Director may waive the requirement for a public hearing for “minor development” upon identified forms of notice. (See LBMC Section 25.07.013(B)(1).) Upon receipt of a request for a hearing, the Community Development Department must schedule the matter for a public hearing and issue notice of such hearing in accordance with the notice provisions of Chapter 25.07. (See LBMC Section 25.07.013(B)(1)(2).)

As discussed with your clients on May 30, 2024, City staff has identified that your clients’ proposed development qualifies as “minor development” (e.g., does not have an adverse effect either individually or cumulatively on coastal resources) and intends to send the notice indicating intent to waive the public hearing. The City left such meeting with your clients indicating that the City would provide them with the proposed “minor development” public hearing waiver notice before sending out the notice in accordance with the above process. The City provided your clients with the enclosed notice on June 17, 2024 and let them know the City would send out the notice three days after such communication. (Enclosed is a copy of the notice that was circulated to your clients.) Your clients informed the City that they wanted to delay the process until they returned home from vacation and would contact the City when they return.

On July 3, 2024, the City was contacted by an attorney for Mr. and Mrs. Reinecke, John Flynn, Esq., for this matter and thereafter met with Mr. Flynn and informed him of the above process. On July 10, 2024, the City received your correspondence on behalf of Mr. and Mrs. Reinecke. The City has since confirmed that you are the sole attorney for Mr. and Mrs. Reinecke in this matter and therefore is responding to you and your enclosed July 10, 2024 letter in more detail below.

Exclusionary Order E-93-1

In your letter dated July 10, 2024, you contend that ADUs are within the definition of “single family residential development” and are therefore subject to the Coastal Commission-issued Exclusionary Order. You cite other cases for which the City relied upon the Exclusionary Order for ADUs. The City acknowledges that it misapplied the Exclusionary Order; however, the City immediately took corrective action upon learning the Coastal Commission’s position on the Coastal Commission-issued Exclusionary Order (i.e., that the order does not exclude the addition of ADUs to existing single family residences).

To be clear, the City is not taking the position that an accessory dwelling unit is unauthorized at your clients’ Property. The City is following the Coastal Commission’s interpretation of its Exclusionary Order and will therefore require a CDP in accordance with LBMC Chapters 25.17 and 25.07; the development is not exempt from the CDP requirements, as discussed further below. Please note, however, that under the City’s certified LCP, your clients may seek review of the City’s determination independently by the Coastal Commission’s Executive Director. (LBMC Section 25.07.012.)

Coastal Act Exemption

ADUs are not subject to a categorical exemption under the City's certified LCP. (LBMC Section 25.07.008(A)(1)(a).) In areas where the Coastal Commission retains original jurisdiction, where jurisdictions do not have their own certified LCP, or where jurisdictions have certified LCPs with exemption language identical to the Coastal Commission definition (e.g., the City of Malibu), attached ADUs may be exempt from the CDP requirement; under the Coastal Commission definition, directly attached structures to a residence, including attached ADUs, are exempt from the types of development that require CDPs. (Public Resources Code Section 30610(a); 14 CCR Section 13250(a)(1)-(2).)

In *Riddick v. Malibu*, the court determined that the project, which consisted of an attached ADU, was exempt from the CDP requirement because language in the Malibu's LIP (like the Coastal Act) included two separate categories of exemptions:

- (1) all fixtures and structures directly attached to the residence; and
- (2) those structures normally associated with a single family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or accessory self-contained residential units.
(Malibu LIP Section 13.4.1.A.)

Since the project at issue in *Riddick* involved an attached ADU, the court decided that the first category for exemption applied and the project did not require a CDP.

By contrast, the City of Laguna Beach has a certified LCP by the Coastal Commission that includes different exemptions based on different intent of the City; the City of Laguna Beach's certified LCP explicitly exempts "improvements to existing single-family dwellings" and combines attached and detached structures into this one exemption and then specifically excepts from the exemption "Guest houses and self-contained accessory dwelling units":

- (A) Certain types of development, described as follows, are considered to be without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a coastal development permit unless indicated otherwise.
 - (1) Improvements to Single-Family Dwellings. Improvements to single-family dwellings and mobilehomes, including structures located on the same lot as the single-family dwelling are normally associated with a single-family dwelling such as garages, swimming pools, fences, storage sheds and landscaping, are exempt unless classified as one of the following:
 - (a) Guest houses and self-contained accessory dwelling units;

(LBMC Section 25.07.008 Exemptions.)


Accordingly, neither an attached ADU nor a detached ADU qualify for an exemption to the CDP requirements in the City of Laguna Beach. The only way this may be modified is by an amendment to the City's Zoning Code and certified LCP, which would require action by the City Council and Coastal Commission. At this time, the City does not anticipate any such amendment.

Conclusion

The City understands your clients' frustration with this process and has been engaged in sincere efforts to resolve this process with your clients. As communicated to your clients during the City's meeting with them on May 30, 2024, the CDP for their proposed attached ADU will be processed as "minor development" in accordance with LBMC Section 25.07.013(A) and (B)(1), as detailed above. Unless a neighbor requests a public hearing, it will be administratively approved. If a neighbor requests a public hearing, the Community Development Director will schedule the matter for a public hearing.

Please let us know if your clients wish to proceed with their attached ADU project. If so, City staff will coordinate sending notice of the public hearing waiver for the "minor development." Please feel free to contact me directly if you have any questions.

Sincerely,



Jane Abzug, Deputy City Attorney
for The City of Laguna Beach

CC: Dave Kiff, City Manager (dkiff@lagunabeachcity.net)
David Contreras, Community Development Director (dcontreras@lagunabeachcity.net)
Megan Garibaldi, City Attorney (Megan.Garibaldi@bbklaw.com)

Enclosures:

1. July 10, 2024 letter
2. Exclusionary Order E-93-1
3. Draft notice for minor development



**PACIFIC LEGAL
FOUNDATION**

July 10, 2024

Mr. David Contreras
Community Development Director
City of Laguna Beach, California

Via email: dcontreras@lagunabeachcity.net

Mr. Dave Kiff
City Manager
City of Laguna Beach, California

Via email: dkiff@lagunabeachcity.net

Re: CDP Exemption for Attached ADU Project at 1673 Louise Street (APN 053-103-10)

Dear Mr. Contreras and Mr. Kiff,

My name is David Deerson, and I represent Steven and Karen Reinecke in connection with their proposal to construct an Accessory Dwelling Unit (ADU) attached to their single-family residence at 1673 Louise Street in Laguna Beach.

As you may know, the Reineckes submitted their planning application in July, 2023. Because their proposed ADU is directly attached to their primary residence, and because the property is subject to Categorical Exclusion Order E-93-1, the Reineckes understood that their project would not require a Coastal Development Permit (CDP). This was based on information then available on the City's website and confirmed by staff in an email from Amber Dobson on April 8. Pursuant to this mutual understanding, the Reineckes received a stamped approval from the Planning Division on May 7, 2024. They were then surprised to learn from Mr. Latham, two weeks later, that the CDP exemption was "rejected by Coastal" (i.e., the California Coastal Commission, or CCC) and that the project must undergo CDP approval procedures. We believe this determination was made in error, and we therefore respectfully urge you find that the project is exempt from the CDP requirement and allow the project to proceed under Laguna Beach's ADU Ordinance as governed by California's ADU law codified at Cal. Gov't Code § 66310, *et seq.*

Order E-93-1 exempts single-family development within the exclusion zone, which includes the Reineckes' property. Moreover, the Coastal Act provides that no CDP shall

Mr. David Contreras
Mr. Dave Kiff
July 10, 2024
Page 2

be required for “[i]mprovements to existing single-family residences.”¹ Under CCC regulations, where there is an existing single-family residence, “[a]ll fixtures and other structures directly attached” are to be considered a part of that residential structure.² As the Court of Appeal recently decided, “[u]nder the Coastal Commission definition, directly attached structures, including ADUs, are exempted from the types of developments that require CDPs under the Coastal Act.”³ In other words, Order E-93-1 and the Coastal Act itself provide independent and overlapping provisions that exempt the Reineckes’ attached ADU from the need to obtain a CDP.

The Coastal Commission’s advice to the contrary is not binding on the City. While the Commission may be asked for an interpretation of a categorical exclusion order, such interpretation must be made pursuant to formal procedures including a hearing.⁴ More than nonbinding, the interpretation offered by the Commission here also lacks persuasive value, especially because it is at odds with several recent instances of E-93-1’s implementation. For example, the City approved many other additions to existing single-family dwellings, including attached ADUs, under the exclusion order within the last year.⁵ The Reineckes presume that the Commission was notified of these exemptions as required by regulations,⁶ but they are not aware that any were subsequently rejected on the grounds now cited for rejecting the Reineckes’ exemption.

Similarly nonbinding is the 2022 guidance memorandum issued by the Commission, and cited in an email from Mr. Kiff, which recommends that ADUs – even attached ADUs – should not be included in the exemption provisions of proposed LCP amendments. Like the Commission’s informal interpretation of Order E-93-1, this guidance too is inconsistent with recent policy. Indeed, it openly contradicts several of the Commission’s earlier guidance memoranda concerning the same subject. Given “the Commission’s inconsistent positions on the issue within a relatively short timeframe,” the Court of Appeal recently refused to afford judicial deference to the Commission’s 2022 memorandum.⁷ The memorandum is also unpersuasive on its substantive

¹ Pub. Res. Code § 30610(a).

² Cal. Code Regs. tit. 14, § 13250(a)(1).

³ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 972.

⁴ Cal. Code Regs. tit. 14, §§ 13245, 13231.

⁵ *See, e.g.*, 950 Baja Street, APN 644-437-12, Design Review 23-1274 (new single-family residence with attached ADU); 1101 Miramar Street, APN 644-430-11, Design Review 23-1511 (upper-level additions to an existing single-family dwelling); 675 Oak Street, APN 644-191-22, Design Review 23-1590 (same).

⁶ Cal. Code Regs. tit. 14, § 13248.

⁷ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 969 n.9.

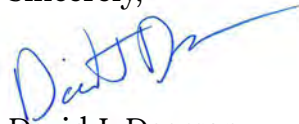
Mr. David Contreras
Mr. Dave Kiff
July 10, 2024
Page 3

reasoning. It reflects the Commission's opinion that an ADU is not an improvement to an existing residence but is instead "the creation of a new residence." Yet the State's ADU law explicitly contemplates that, at least for some purposes, an ADU shall not be considered a new residential use.⁸ And ADUs cannot be sold separately from the primary residence except under very narrow circumstances not applicable here, further indicating that the Reineckes' ADU is an improvement, not an entirely new residence.⁹

California faces a severe housing crisis, with significant consequences for the State's economy, its environmental goals with respect to greenhouse gas emissions, and the welfare of its citizens.¹⁰ To address these concerns, the Legislature has established a mandatory framework for owners of existing single-family homes to obtain by-right permits to construct ADUs. By pursuing their proposed project, the Reineckes are taking part in a statewide effort to combat California's housing shortage and to help provide an "essential component" of the State's housing supply.¹¹ Because this project is exempt from the need to obtain a CDP under Exclusion Order E-93-1 and under the Coastal Act itself, we respectfully request that you approve their application and permit their project on a ministerial basis under the standards provided in Laguna Beach's ADU Ordinance and as governed by the State's ADU law.

Please indicate your response as soon as is practicable. Due to rising construction costs, the matter is time sensitive.

Sincerely,



David J. Deerson
Counsel for Steven and Karen Reinecke
Pacific Legal Foundation
DDeerson@pacificlegal.org
Telephone: (916) 419-7111

cc: Mr. Daniel Latham, Associate Planner
City of Laguna Beach, California
Ms. Amber Dobson, Planning Manager
City of Laguna Beach, California

⁸ See Gov't Code § 66324(b) (an ADU is not a new residential use for purposes of calculating utility connection fees and capacity charges).

⁹ See Gov't Code § 66341.

¹⁰ Gov't Code § 66310(e), (f).

¹¹ Gov't Code § 66310(h).

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

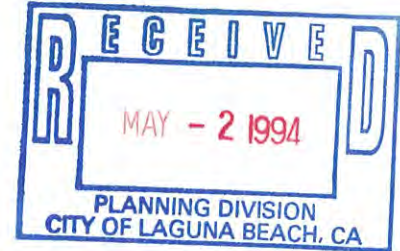


April 28, 1994

Mr. Kyle Butterwick
Planning Director
505 Forest Avenue
Laguna Beach, CA 92651

Re: Categorical Exclusion Order E-93-1

Dear Mr. Butterwick,



Thank you for submitting the final maps necessary to carry out Categorical Exclusion E-93-1 and City resolution 93.089 acknowledging receipt of the Commission's resolution of approval and agreeing to accept the terms and conditions to which the categorical exclusion has been made subject. The Executive Director hereby determines that these actions are legally adequate to carry out the exclusion order pursuant to Section 13244 of Title 14 of the California Code of Regulations. Consequently, Categorical Exclusion Order E-93-1 is now fully effective.

Please note that Special Condition No. 7 of the Coastal Commission's approval of the Exclusion Order requires the City to notify the Commission of any development exempted from coastal development permit requirements under the Categorical Exclusion. Moreover, Section 13244 of Title 14 of the California Code of Regulations requires that any City approval of development based on the Categorical Exclusion Order "shall be conditioned on the requirement that the public agency permit shall not be effective for twenty working days following commission receipt of notification." Please ensure that every approval of development based on the Categorical Exclusion contains the necessary language.

Thank you and your staff for all your efforts toward final approval of the categorical exclusion. Please do not hesitate to contact me or Teresa Henry with any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Charles Damm".

Charles Damm
South Coast District Director

cc: Kathy Lottes, Principal Planner

1676F

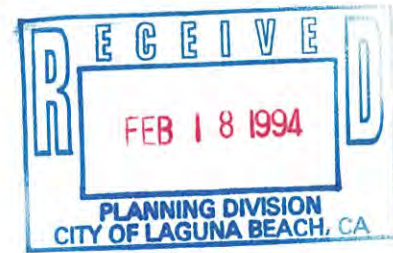
CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071



February 16, 1994

Ms. Kathy Lottes
Principal Planner
505 Forrest Avenue
Laguna Beach, CA 92651



Dear Ms. Lottes,

I apologize for the delay in responding to your submittal to finalize Categorical Exclusion Order No. E-93-1 approved by the Commission May 13, 1993. The Categorical Exclusion Areas Map raises a few questions.

Special Condition 4c requires that the areas of potential public trust be adequately depicted. Additionally, Special Condition 4d requires that all bodies of water, riparian corridors, and wetlands be depicted. It appears that the hatched area along the coast identifies the areas subject to public trust and the dotted areas inland identify the riparian, etc. areas. However, there is no map note to indicate this. The areas described in Special Condition 4 c and d must be identified and labeled.

In Categorical Exclusion area No. 2, there appears to have been included an area at Allview Terrace that might not qualify as excludable based on the Geologic Conditions map of the Land Use Plan. The LUP identifies a potentially active fault within the area identified as excluded (see attached for area). Also, the Categorical Exclusion area boundary in the same area is not clear. It may not be the City's intent to exclude the area described above, but it is not clear from the map.

Finally, in area 7, it appears that lots that may not be excludable based on high slope are included in the exclusion area. The lots in question are on the northern side at the end of Kendall Drive. The slope map available in this office is not of sufficient scale to make a definite determination.

Please do not hesitate to contact me with any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Meg Vaughn".

Meg Vaughn
Staff Analyst

enc.
1239F



December 3, 1993

Mr. Chuck Damm, District Director
South Coast Area
California Coastal Commission
245 W. Broadway, Suite 380
Long Beach, CA 90802-4416

Re: Categorical Exclusion Order No. E-93-1

Dear Mr. Damm:

To complete the final requirements of the Categorical Exclusion Order, I am submitting Resolution No. 93.089, adopted by the City Council on November 9, 1993, which acknowledges Coastal Commission approval of the Exclusion Order and agrees to its terms and conditions. In addition, two copies of the Categorical Exclusion Areas Map are enclosed for your review.

I hope that you will find these items satisfactory and that the City may soon begin implementing the Categorical Exclusion Order. Please call me at (714) 497-0713 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Lottes".

Kathryn Lottes
Principal Planner

enc.

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RESOLUTION 93.089

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA BEACH ACKNOWLEDGING COASTAL
COMMISSION APPROVAL OF A CATEGORICAL EXCLUSION
ORDER AND AGREEING TO THE TERMS AND
CONDITIONS THEREOF

WHEREAS, the City of Laguna Beach submitted a request to establish categorical exclusions as a part of the City's Local Coastal Program to the California Coastal Commission; and

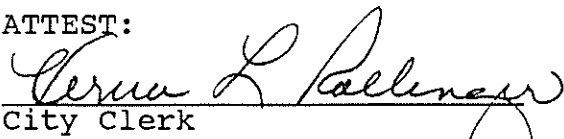
WHEREAS, the categorical exclusions were approved, subject to conditions, by the Coastal Commission on May 13, 1993; and

WHEREAS, pursuant to California Code of Regulations Section 13244, the local government must acknowledge receipt of the Coastal Commission's resolution of approval, including any conditions which may have been required, and accept and agree to the terms and conditions of the Categorical Exclusion Order prior to the Order becoming effective;

NOW, THEREFORE BE IT RESOLVED that the City of Laguna Beach hereby acknowledges receipt of the Coastal Commission's resolution of approval of Categorical Exclusion Order E-93-1 and hereby accepts and agrees to the terms and conditions to which the categorical exclusion has been made subject.

ADOPTED this 9th day of November, 1993.


Mayor


ATTEST:

City Clerk

I, Verna L. Rollinger, City Clerk of the City of Laguna Beach,

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California hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on November 9, 1993 by the following vote:

AYES:	COUNCILMEMBER(S)	Gentry, Blackburn, Peterson Christoph, Lenney
NOES:	COUNCILMEMBER(S)	None
ABSENT:	COUNCILMEMBER(S)	None
ABSTAIN:	COUNCILMEMBER(S)	None



City Clerk
City of Laguna Beach, California

City of Laguna Beach
AGENDA BILL

22

No: CONSENT

Meeting Date: 11/02/93

SUBJECT: COASTAL COMMISSION CATEGORICAL EXCLUSION ORDER E-93-1.

SUMMARY OF THE MATTER:

The California Coastal Commission has approved certain exclusions from the City's coastal permitting requirements. These exclusions were previously reviewed by the City Council and subsequently submitted to the Coastal Commission. In order to meet the conditions of the Coastal Commission's approval, the City Council must adopt a resolution that acknowledges the Coastal Commission approval of the exclusion order and agrees to the terms and conditions of that approval. This resolution has been prepared by staff and is attached.

A copy of the Coastal Commission staff report, which explains the exclusion categories and special conditions, is also attached. The exclusions which have been approved include 11 geographic areas; however, the Alta Vista area has been dropped because the Exclusion Order does not apply to areas that are mapped as high and very high slope areas and/or areas of geologic risk in the Open Space/Conservation Element of the General Plan/Coastal Land Use Plan. These exclusion areas are shown on a map which is available in the City Council's office.

The remaining exclusion categories are: 1) signs which comply with the City's sign regulations; 2) commercial interior and exterior changes which do not result in an intensification of commercial use; 3) certain, limited public improvement projects that are under \$50,000 or are in-kind replacements; and 4) grading projects that do not require a grading permit, except that emergency grading is not exempt.

As described in the Coastal Commission staff report, the Exclusion Order does not become effective until the Executive Director of the Coastal Commission approves the geographic area exclusion map and further, determines that the City's resolution is legally adequate to carry out the Exclusion Order.

RECOMMENDATION: It is recommended that the City Council:

Adopt the attached resolution which acknowledges the Coastal Commission approval of Categorical Exclusion Order E-93-1 and accepts and agrees to the terms and conditions of that Order.

Appropriations Requested: \$ _____

Submitted by: Kyle Bittner

Fund: _____

Coordinated With: _____

Attachments: Coastal Commission staff report and resolution.

Approved: Kenneth Fong
City Manager

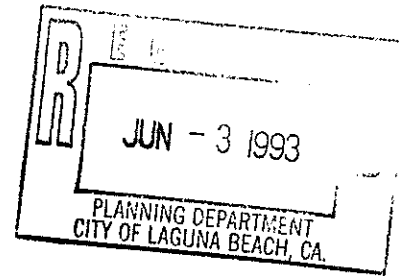
CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071



June 1, 1993

Kathryn Lottes
Principal Planner
Laguna Beach Planning Department
505 Forest Avenue
Laguna Beach, CA 92651



Dear Ms. Lottes,

On May 13, 1993 the Coastal Commission approved as conditioned Categorical Exclusion Order E-93-1 for the City of Laguna Beach. Pursuant to California Code of Regulations Section 13244, the Categorical Exclusion Order will not become effective until the following occurs:

- 1) the City of Laguna Beach, by action of its governing body, acknowledges receipt of the commission's resolution of approval, including any conditions which may have been required;
- 2) the City by appropriate action of its governing body, accepts and agrees to the terms and conditions to which the categorical exclusion has been made subject; and
- 3) the Executive Director of the Commission determines in writing that the City's resolution is legally adequate to carry out the exclusion order and that the notification procedures satisfy the requirements of the exclusion order.

Once these requirements are met, the City may begin implementing the Categorical Exclusion Order. Attached for reference is a copy of Categorical Exclusion Order E-93-1 as approved by the Coastal Commission.

If you have any question regarding this matter, please contact Meg Vaughn of this office or myself.

Sincerely,

A handwritten signature in cursive script that reads "Teresa Henry".

Teresa Henry
Assistant District Director

8747E

A. CATEGORY OF EXCLUDED DEVELOPMENT

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30610(e) and 30610.5(b) which excludes the following categories of development in the designated areas of the coastal zone of the City of Laguna Beach from the permit requirements of the California Coastal Act of 1976. However, no development located on tidelands or submerged lands, beaches, lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach and all land and water subject or potentially subject to the public trust is excluded by this order. In addition, no development in areas of deferred certification or development appealable under Public Resources Code Section 30603 is excluded by this order. The Commission hereby orders that the following developments within the excludable area shall not require a coastal development permit:

1. Single Family Residential Development

Single family residential development in eleven areas zoned for single family residential development as shown on Exhibit E unless within the LCP mapped areas of high slope or geologic risk as shown on the Slope map and Geologic Conditions map. The areas to be excluded are known as: (1) Hillcrest and (2) High, located north of Laguna Canyon Road and inland of Pacific Coast Highway; (3) Skyline, (4) High School, (5) Temple Hills, (6) Summit, (7) Alta Vista, (8) Portafina, (9) Arch Beach Heights and (10) Top of the World, all located south of Laguna Canyon Road and inland of Pacific Coast Highway; and (11) South Laguna Village Community, located in the South Laguna area inland of Pacific Coast Highway.

2. Signs

Signs which comply with the City's sign regulations as incorporated into the Local Coastal Program or as subsequently modified through LCP amendments.

3. Commercial Changes

Commercial interior and exterior changes which do not result in an intensification of commercial usage.

4. Public Improvements Up to \$50,000

Public improvement projects of up to \$50,000 provided they do not limit parking or impair beach access or do not serve, affect, or otherwise impact regional or statewide recreational use of the coast.

5. Replacement-in-Kind/Maintenance of Public Improvements

Public improvement projects which are limited to replacement-in-kind or maintenance and which are not located in environmentally sensitive areas as shown on the LCP Biological Resource Values map or open space areas, the Downtown Specific Plan, oceanfront properties or public buildings or parks or do not serve, affect, or otherwise impact regional or statewide recreational use of the coast.

6. Grading Projects

Grading projects which do not require a grading permit (as provided in the exceptions provision of Section 22.10.010 (E) of the Municipal Code), except those projects described in Section 22.10.010(E)(5) or within areas shown on the LCP Biological Resource Values map.

B. SPECIAL CONDITIONS

Exclusion Limitations

These exclusions will not apply to any areas of deferred certification or to developments upon any lands and waters subject to or potentially subject to the public trust, such as tide or submerged lands, beaches, lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach. Also, these exclusions will not apply to any areas appealable to the Coastal Commission under Public Resources Code Section 30603.

1. Areas of Geologic Risk

The Categorical Exclusion Order shall not apply to areas that are mapped as high and very high slope areas and areas of geologic risk in the City's certified Land Use Plan.

2. Revised Grading Description

The categorical exclusion order shall not apply to Section 22.10.010 (E)(5) of the Laguna Beach Municipal Code.

3. Public Improvement Projects

The categorical exclusion order shall apply only to public improvement projects that do not exceed \$50,000, do not limit parking or impair beach access and that do not serve, affect or otherwise impact regional or statewide recreational use of the coast.

4. Mapping

This order of categorical exclusion shall not be implemented until the City submits to the Executive Director of the Coastal Commission and the Executive Director approves, in writing, a map depicting all of the following:

- a. The geographic areas excluded by the Commission Order;
- b. The zoning designations of the excluded order;
- c. The areas of potential public trust (areas subject to the public trust are seaward of the line of mean high tide);
- d. All coastal bodies of water, riparian corridors, and wetlands as may be shown on any Land Use Plan Resources Maps, or background studies;

e. The boundaries of all lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach;

f. A map note which clearly indicates that the written terms of this order should be consulted for a complete listing of non-excludable developments. The note shall, to the maximum extent practicable, indicate the topical areas which are non-excludable. It shall state that no development within one hundred feet from the upland limit of any stream, wetland, marsh, estuary, or lake, or within 300 feet of the top of the seaward face of any bluff is excluded by the terms of this order, regardless of whether such coastal waters are depicted on the exclusion map, or not. The map note shall further state that where geologic risk, high slope, environmentally sensitive habitat, open space or other similar policies of the certified local coastal program specify geographic areas of concern for natural resources, then no development shall occur in the area described in the local coastal program unless authorized by a coastal development permit.

5. Determination by the Executive Director

The order granting a categorical exclusion for these categories of development in the City of Laguna Beach shall not become effective until the Executive Director of the Commission has certified, in writing, that the local government has taken the necessary action to carry out the exclusion order pursuant to Section 13244 of the Coastal Commission regulations.

5. Exclusion Limited to Coastal Permits

This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code 30610(e) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state or local government agency.

6. Records

The City of Laguna Beach shall maintain a record of any other permits which may be required for categorically exempt development which shall be made available to the Commission or any other interested person upon request.

7. Notice

Within five working days of local approval of a development covered by this exclusion, the Coastal Commission area office and any person who has requested such notice shall receive notification of development exempted under this order on a form containing the following information:

- a. name of the developer;
- b. street address and parcel number of the subject property;
- c. description of the development;
- d. date of application for other permits; and
- e. all terms and conditions of approval imposed by the local government in granting other permits.

8. Conformity with the LCP

Development under this exclusion shall conform with the City of Laguna Beach's LCP in effect on the date of this exclusion as adopted by the Commission or to the terms and conditions of this exclusion where such terms and conditions specify more restrictive development criteria.

9. Amendment of LCP

In the event an amendment of the LCP is certified by the Coastal Commission pursuant to Section 30514 of the Coastal Act, development under this order shall comply with the amended LCP except where the terms and conditions of this order specify more restrictive criteria. However, such amendment shall not authorize the exclusion of any category of development not excluded herein, nor shall such amendment alter the geographic areas of the exclusion.

10. Limitation

Any development not falling within this exclusion remains subject to the coastal development permit requirements of the Coastal Act of 1976.

C. RECISION AND REVOCATION

Pursuant to Title 14 of the California Code of Regulations Section 13243(e), the Commission hereby declares that the order granting this exclusion may be rescinded at any time, in whole or in part, if the Commission finds by a majority vote of its appointed membership, after public hearing, that the terms and conditions of the exclusion order no longer support the findings specified in Public Resources Section 30610(e). Further, the Commission declares that this order may be revoked at any time that the terms and conditions are violated.

Jane Abzug

From: Crabtree, David CD <dcrabtree@lagunabeachcity.net>
Sent: Monday, June 17, 2024 8:23 AM
To: karenreinecke4@gmail.com
Cc: Kiff, Dave CM; Jane Abzug; Dobson, Amber CD
Subject: public notice to be mailed this week

CAUTION - EXTERNAL SENDER.

Good Morning Ms. Reinecke – Attached please find the public notice which will be mailed to the radius mailing list for your property this Thursday. Respecting your request from our recent meeting we wanted to provide this notice to you ahead of time and let you know that it will be mailed this Thursday. Please feel free to reach me if you should have any questions. Best Regards, David

I'm using Adobe Acrobat.

Here's the [ADU CDP Public Notice Template_1673 Louise-c1.pdf](#) for you to review.



David M Crabtree, AICP
Interim Community Development Director
Community Development
505 Forest Avenue
Laguna Beach, CA 92651
(949) 497-0361

Exhibit H



**PACIFIC LEGAL
FOUNDATION**

September 6, 2024

Dr. Kate Huckelbridge
Executive Director
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

Via Email: Kate.Huckelbridge@coastal.ca.gov

Re: CDP Exemption for Attached ADU Project at 1637 Louise Street (APN 053-103-10)

Dear Dr. Huckelbridge

My name is David Deerson, and I represent Steven and Karen Reinecke in connection with their proposal to construct an Accessory Dwelling Unit (ADU) attached to their single-family residence at 1673 Louise Street in Laguna Beach, California.

Because their proposed ADU is directly attached to their primary residence, and because the property is subject to Categorical Exclusion Order E-93-1, the Reineckes understood that their project would not require a Coastal Development Permit (CDP). This was based on information then available on the City's website (**Exh. A**) and confirmed by staff in an email from Amber Dobson on April 8 (**Exh. B**). Pursuant to this mutual understanding, the Reineckes received a stamped approval from the Planning Division on May 7, 2024. They were then surprised to learn from Community Development Director Mr. Daniel Latham, two weeks later, that the CDP exemption was "rejected by Coastal" (i.e., the California Coastal Commission) and that the project must undergo CDP approval procedures. Following a public records request, the City shared a series of email communications between City and Commission staff. (**Exh. C**). We believe this determination was made in error, and we therefore respectfully request that you formally review this matter pursuant to Cal. Code Regs. tit. 14, § 13245 and Laguna Beach Municipal Code § 25.07.012(B)(3).

Order E-93-1 exempts single-family development within the exclusion zone, which includes the Reineckes' property. Moreover, the Coastal Act provides that no CDP shall be required for "[i]mprovements to single-family residences."¹ Under CCC regulations, where there is an existing single-family residence, "[a]ll fixtures and other structures

¹ Pub. Res. Code § 30610(a).

directly attached” are to be considered a part of that residential structure.² As the Court of Appeal recently decided, “[u]nder the Coastal Commission definition, directly attached structures, including ADUs, are exempted from the types of developments that require CDPs under the Coastal Act.”³ In other words, Order E-93-1 and the Coastal Act itself provide independent and overlapping provisions that exempt the Reineckes’ attached ADU from the need to obtain a CDP.

The refusal to apply the categorical exclusion here is at odds with several recent instances of E-93-1’s implementation. For example, the City approved many other additions to existing single-family dwellings, including attached ADUs, under the exclusion order within the last year.⁴ The Reineckes presume that the Commission was notified of these exemptions as required by regulation,⁵ but they are not aware that any were subsequently rejected on the grounds now cited for rejecting the Reineckes’ exemption.

In response to requests for more information, the Reineckes were presented with a 2022 guidance memorandum issued by the Commission, which recommends that ADUs—even attached ADUs—should not be included in the exemption provisions of proposed LCP amendments. This guidance too is inconsistent with recent policy. Indeed, it openly contradicts several of the Commission’s earlier guidance memoranda concerning the same subject. Given “the Commission’s inconsistent positions on the issue within a relatively short timeframe,” the Court of Appeal recently refused to afford judicial deference to the Commission’s 2022 memorandum.⁶ The memorandum is also unpersuasive on its substantive reasoning. It reflects former Executive Director Mr. Ainsworth’s opinion that an ADU is not an improvement to an existing residence but is instead “the creation of a new residence.” Yet the State’s ADU law explicitly contemplates that, at least for some purposes, an ADU shall not be considered a new residential use.⁷ And ADUs cannot be sold separately from the primary residence

² Cal. Code Regs. tit. 14, § 13250(a)(1).

³ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 972.

⁴ See, e.g., 950 Baja Street, APN 644-437-12, Design Review 23-1274 (new single-family residence with attached ADU); 1101 Miramar Street, APN 644-430-11, Design Review 23-1511 (upper-level additions to an existing single-family dwelling); 675 Oak Street, APN 644-191-22, Design Review 23-1590 (same).

⁵ Cal. Code Regs. tit. 14, § 13248.

⁶ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 969 n.9.

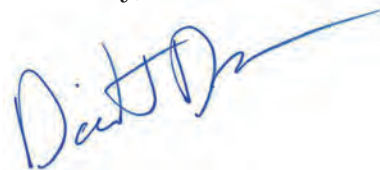
⁷ See Gov’t Code § 66324(b) (an ADU is not a new residential use for purposes of calculating utility connection fees and capacity charges).

except under very narrow circumstances not applicable here, further indicating that the Reineckes' ADU is an improvement, not an entirely new residence.⁸

California faces a severe housing crisis, with significant consequences for the state's economy, its environmental goals with respect to greenhouse gas emissions, and the welfare of its citizens.⁹ To address these concerns, the Legislature has established a mandatory framework for owners of existing single-family homes to obtain by-right permits to construct ADUs. By pursuing their proposed project, the Reineckes are taking part in a statewide effort to combat California's housing shortage and to help provide an "essential component" of the state's housing supply.¹⁰ Because this project is exempt from the need to obtain a CDP under Exclusion Order E-93-1 and under the Coastal Act itself, we respectfully request that you make a formal determination that the Reinecke's project is exempt from the need to obtain a CDP.

Please indicate your response as soon as is practicable. Due to rising construction costs, the matter is time sensitive.

Sincerely,



David J. Deerson
Attorney
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, CA 95814
(916) 419-7111
DDeerson@pacificlegal.org

Enclosures

⁸ See Gov't Code § 66341.

⁹ Gov't Code § 66310(e), (f).

¹⁰ Gov't Code § 66310(h).

Exhibit A

REGULATIONS AND REVIEW PROCESS

What are the Regulations for ADUs?

In July 2023, the City adopted [Resolution No. 23.030](#), which establishes updated regulations consistent with state law and Coastal Commission requirements. General regulations (e.g. setbacks, height, parking, etc.) are outlined in the [City's ADU handout](#).

Application Review Process

ADU conversions that comply with the City's ordinance ([click here](#) to view the handout) may be approved over the counter by the Planning Division for immediate Building Plan Check submittal. All other ADU projects will be subject to the standard Zoning Plan Check process prior to Building Plan Check submittal. Please visit a planner first to determine the appropriate process.

***Effective December 7, 2023,** ADUs that have the potential to impact public views to and along the ocean and scenic coastal areas require Administrative Design Review approval of a Coastal Development Permit (CDP). Public viewing locations are primarily considered public roads, trails, and parks. The proposed ADU would be reviewed for compliance with the CDP review criteria and findings only, unless the project also requires design review, in which case the design review criteria would also apply. During the Administrative Design Review hearing, the Community Development Director or designee can condition roofline or height changes to the project or require greater setbacks.

The following projects are exempt from this requirement: (1) ADUs and JADUs that would be created through the conversion of enclosed building area only; and (2) projects located within a [mapped categorical exclusion area](#).



ACCESSORY DWELLING UNITS (ADUs) and JUNIOR ADUs

Space Between Buildings

Min. 10' separation between attached or detached ADUs and any other building. This building separation can be reduced, provided Building and Fire Code requirements are met.

Outdoor Living Space

Covered exterior porches, decks, patios, and other outdoor living spaces attached to the ADU shall comply with the height, setbacks, and design standards above and are limited to 20% maximum floor area of the ADU. Elevated decks more than 3' above adjacent existing grade shall require design review. Roof decks shall be prohibited.

Historic Resources

Attached ADUs, converted ADUs, and JADUs proposed to structure listed on the California Register of Historic Resources of the City's Register shall meet all Secretary of the Interior Standards, as applicable.

Lighting

Outdoor lighting must be hooded, fully shielded, and aimed downward.

Nonconforming Structure

ADUs created in the same location as an existing legally non-conforming structure may maintain the nonconforming setbacks and height. Any expansions beyond the existing dimensions of the legally non-conforming structure shall comply with the requirements.

Vehicular Access

Utilize the same vehicular access that serves the primary buildings, unless the Fire and Public Works Department finds that a secondary access will not degrade existing safety or traffic concerns. Secondary access requires Design Review.

CDP

Administrative Coastal Development Permit is required for ATTACHED and DETACHED ADUs. The City's decision will be subject to a 10-working day appeal period once the California Coastal Commission acknowledges receipt of the notice. If no appeal is filed, the City's decision is final.

Administrative Design Review approval of a **Coastal Development Permit** is required for ATTACHED ADUs when staff determines that the ADU may impact public views to and along the ocean and scenic coastal areas. Projects located within a [mapped categorical exclusion area](#) are exempt from this requirement.

Fees

Sewer Connection Fees apply to ATTACHED/DETACHED ADUs. **School Fees** apply to ATTACHED/DETACHED ADUs above 500 sqft.

Additional Development Standards Applicable to ATTACHED OR DETACHED ADUS LARGER THAN 850 sqft (STUDIO/1-BR) OR 1,000 sqft (2-BR OR MORE)

Design Standards

The exterior materials and finish, color scheme, and roof design, and pitch of an ADU above 12' in height shall match the primary dwelling building if an ADU is visible from any public or private roadway (including alleys).

Parking

Replacement of Existing Parking for the Primary Residence is required when a garage, carport, or covered parking structure is converted or demolished to create an ADU or JADU. Replacement parking can be uncovered, tandem, and located within the front or side yard setback.

One Parking Space per ADU Required

- May be provided on a driveway.
- Min. 3' from side property lines. Larger setbacks may be required based on site specific or fire and life safety conditions, as determined by the Fire Department and/or the Building Division, whichever is more restrictive.
- Not within a required on-site turnaround area.

ADU Parking is Not Required

- In any of the following circumstances:
 - Converted ADU or JADU.
 - ADU is deed restricted as an affordable housing unit.
 - ADU is an ADA-compliant housing unit.
 - ADU is located within 1/2-mile walking distance of public transit (includes Trolley) or within the Downtown Specific Plan area.
 - ADU is located on a lot within 100' of free on-street parking, in a neighborhood with adequate on-street parking supply, and does not degrade the existing emergency vehicle access as determined by the City.
 - ADU is located within a structure listed on the California Register of Historic Resources or the City's Historic Register.
 - ADU is located on a property within a locked gate community.
 - On-street parking permits are required but not offered to the occupant of the ADU.
 - A car share vehicle is located within one block of the ADU.
 - The ADU project is submitted with an application for a new primary structure on the same lot.

Exhibit B

Thursday, June 13, 2024 at 16:08:15 Pacific Daylight Time

Subject: RE: 1673 Louise St. ADU
Date: Monday, April 8, 2024 at 3:52:06 PM Pacific Daylight Time
From: Dobson, Amber CD
To: Warren Hutcherson, Latham, Daniel CD
CC: karenreinecke4@gmail.com, Steven Reinecke
Attachments: Reinecke ADU.pdf

Hello Warren,

Yes, you are correct. The assessment done by staff determined that there was no public view impact anyway.

Daniel will assist with providing stamped approved plans.

-Amber

From: Warren Hutcherson <wh3d@cox.net>
Sent: Thursday, April 4, 2024 1:41 PM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: karenreinecke4@gmail.com; steven@smreinecke.com
Subject: 1673 Louise St. ADU

[**NOTICE:** This message originated outside of City of Laguna Beach -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Hi Amber,

Pursuant to CITY OF LAGUNA BEACH ADU QUICK GUIDE Updated February 2024; and Administrative Design Review approval of a Coastal Development Permit is required for ATTACHED ADUs when staff determines that the ADU may impact public views to and along the ocean and scenic coastal areas. **Projects located within a mapped categorical exclusion area are exempt from this requirement;** and that 1673 Louise St. is in the Local Coastal Program Exclusion Area 1) Hillcrest Area (Per Categorical Exclusion Order E-93-1); and the ADU proposal (attached) does not require a CDP (Coastal Development Permit); and previous exemptions have been processed through the city; and 1673 Louise St. has been deemed complete by city staff, 1673 Louise St. ADU is therefore approved through the city zoning department and cleared to the building department for building plan check.

Please provide written clearance as such at your earliest convenience.

Thank you,

Warren

Exhibit C

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: Categorical Exclusion Notice
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: May 2, 2024 1:37 PM (UTC-04:00)
Attached: Comment Letter to City of San Clemente on CATEX and ADUs.pdf, ADU-Memo 1.21.2022.pdf

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

We received the Categorical Exclusion Notice for the project at 1673 Louise Street (Case No. ZPC 2023-1391). We have also researched the status of the City's Categorical Exclusion Order No. E-93-1. That Order remains in effect as approved by the Coastal Commission May 13, 1993, and becoming fully effective upon receipt of the final maps in 1994. No changes to Categorical Exclusion Order No. E-93-1 since that approval have been approved by the Coastal Commission.

Regarding residential development, approved Categorical Exclusion Order E-93-1 excludes from coastal development permit requirements single family residential development in the eleven areas identified in the Order. The Order does not exclude the addition of Accessory Dwelling Units (ADUs) to existing single family residences. Therefore, the subject project (Case No. ZPC 2023-1391) does not qualify for a categorical exclusion.

Attached is a 2021 letter to the City of San Clemente on this subject, with attached CCC memos on the topic. Also attached is a more recent CCC memo (1/21/2022) on this topic.

Please let me know if you have any questions.

Thank you,

Meg Vaughn

Coastal Program Analyst

California Coastal Commission

meg.vaughn@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 E Ocean Blvd, Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



November 23, 2021

City of San Clemente
Cecilia Gallardo-Daly, Community Development Director
910 Calle Negocio, Suite 100
San Clemente, CA 92673

Delivered via electronic mail

Re: City of San Clemente CatEx Order E-82-1 and Accessory Dwelling Units (ADUs)

Dear Ms. Gallardo-Daly,

In our quarterly coordination meeting on August 5, 2021, Commission staff learned that accessory dwelling units (“ADUs”) or junior accessory dwelling units (“JADUs”)¹ have been previously processed and authorized in the categorically excluded areas of the Coastal Zone of San Clemente without a coastal development permit (CDP). The City’s decision prompts questions of regulatory consistency² regarding the increase of intensity of use of a single-family residence via a categorical exclusion determination that we would like to bring to your attention and help to address in future City determinations of this kind.

The purpose of Categorical Exclusion (CatEx) Order E-82-1 is to narrowly streamline the administrative process for single- and multi-family residential developments determined to pose relatively low risk of impacts to coastal resources, as identified in the Coastal Act. If a proposed accessory structure or use isn’t necessary or “appurtenant” to the construction of a residence, it is **not** eligible development considered under the CatEx Order because it falls outside of the narrow scope of development considered in the CatEx Order and may require more extensive review than the 7-day period allotted for CatEx applications. If an applicant wishes to propose improvements or additions to residences with accessory structures/development, the appropriate mechanism for review of such a proposal is through a CDP application. Thus, because ADUs and JADUs are considered accessory to a single-family residence, rather than “appurtenant,” approval of an ADU or JADU via the City’s existing CatEx is not appropriate.

Additionally, there are similar considerations for whether ADU/JADU projects may be eligible for an exemption. ADU/JADU projects are typically considered “development” under the Coastal Act, as defined in Section 30106, because they result in a “change in density or intensity of use of land.” Such projects normally do not qualify as exempt from the requirement to obtain a coastal development permit under Section 30610 of the Coastal Act because California Code of Regulations § 13250(a)(2) precludes exemption eligibility for guest houses or self-contained residential units converted from structures like garages or storage sheds, or because such projects

¹ JADUs are 500 square feet or less, as defined by Gov. Code § 65852.2(e)(1)(A) and 65852.22.

² Please see the Coastal Commission’s statewide guidance on accessory dwelling units (“ADUs”) contained in memoranda dated April 18, 2017, November 20, 2017, and April 21, 2020 (attached).

involve the risk of adverse environmental effects. Thus, there are very few circumstances where such development is determined to be exempt from a CDP requirement.

At this time, there are several other provisions to expedite approval for ADU/JADU projects within the Coastal Zone of the City of San Clemente. First, there may be very select cases where a JADU may be exempted. In other cases, the development approval may be streamlined through a particular type of CDP known as a “De Minimis Waiver.” In the future, the City may incorporate procedures for a streamlined review of coastal development permits into a certified Local Coastal Program (LCP) for the coastal zone segments within the City of San Clemente. The City may also pursue a new CatEx order that specifically addresses ADU/JADU development. Until such provisions are legally enacted, however, Commission staff recommend that the City and Commission coordinate permitting procedures for ADU/JADU projects for efficient processing. We look forward to future collaboration with the City of San Clemente to ensure that development is permitted in a manner consistent with the Coastal Act and state law.

Sincerely,

Shannon Vaughn

shannon.vaugn

District Manager, South Coast District

cc: Christopher Wright, City of San Clemente

Attachments:

April 18, 2017 CCC ADU memorandum

November 20, 2017 CCC ADU memorandum

April 21, 2020 CCC ADU memorandum

CALIFORNIA COASTAL COMMISSION

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TO: Planning Directors of Coastal Cities and Counties

FROM: John Ainsworth, Executive Director

RE: New Accessory Dwelling Unit Legislation

DATE: April 18, 2017

New State requirements regarding local government regulation of “accessory dwelling units” (ADUs) became effective on January 1, 2017. The Legislature amended Government Code section 65852.2 to modify the requirements that local governments may apply to ADUs, most notably with respect to parking. The Legislature further specified that local ADU ordinances enacted prior to 2017 that do not meet the requirements of the new legislation are null and void. (Gov. Code, § 65852.2, subd. (a)(4).) Significantly, however, the Legislature further directed that the statute shall not be interpreted to “supersede or in any way alter or lessen the effect or application of the California Coastal Act . . . except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.” (Gov. Code, § 65852.2, subd. (j).) The Legislature also enacted Government Code section 65852.22, which establishes streamlined review of “junior” ADUs in jurisdictions that adopt ordinances that meet certain specified criteria. Unlike Government Code section 65852.2, the junior ADU statute does not specifically address or refer to the Coastal Act.

The Coastal Act requires the Coastal Commission to encourage housing opportunities for low and moderate income households and calls for the concentration of development in existing developed areas. (Pub. Resources Code, §§ 30250, subd. (a); 30604, subd. (f).) The creation of new ADUs in existing residential areas is a promising strategy for increasing the supply of lower-cost housing in the coastal zone in a way that avoids significant adverse impacts on coastal resources.

Some local governments have requested guidance from the Coastal Commission regarding how to implement the ADU and junior ADU statutes in light of Coastal Act requirements. This memorandum is intended to provide general guidance for local governments with fully certified local coastal programs (LCPs). The Coastal Commission is generally responsible for Coastal Act review of ADUs in areas that are not subject to fully certified LCPs. Local governments that have questions about specific circumstances not addressed in this memorandum should contact the appropriate district office of the Coastal Commission.

1) Update Local Coastal Programs

The Coastal Commission strongly recommends that local governments amend their LCPs to address the review of coastal development permit (CDP) applications for ADUs in light of the new



legislation. Currently certified provisions of LCPs, including specific LCP ADU sections currently in place, are not superseded by Government Code section 65852.2 and continue to apply to CDP applications for ADUs. Any conflicts between those LCP provisions and the new statutory requirements as they apply to *local permits other than CDPs*, however, may cause confusion that unnecessarily thwarts the Legislature's goal of encouraging ADUs. Government Code section 65852.2 expressly allows local governments to adopt local ordinances that include criteria and standards to address a wide variety of concerns, including potential impacts to coastal resources, and thus the coastal resource context applicable to any particular local government jurisdictional area needs to be addressed in any proposed LCP ADU sections. Coastal Commission staff anticipates that LCP amendments to implement the ADU legislation will reconcile Coastal Act requirements with the ADU statutes, thus allowing accomplishment of the Legislature's goals both with respect to coastal protection and encouragement of ADUs.

When evaluating what specific changes to make to an LCP, consider whether amendments to the land use plan component of the LCP are necessary in order to allow proposed changes to the implementation plan component. LCP amendments that involve purely procedural changes, that do not propose changes in land use, and/or that would have no impact on coastal resources may be eligible for streamlined review as minor or de minimis amendments. (Pub. Resources Code, § 30514, subd. (d); Cal. Code Regs., § 13554.)

2) Review of ADU Applications

- A) **Check CDP History for the Site.** The ADU statutes apply to residentially zoned lots that currently have a legally established single-family dwelling. Determine whether a CDP was previously issued for development of the lot and whether that CDP limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. In such cases, previous CDP requirements must be understood in relation to the proposed ADU, and they may restrict the proposal. If an ADU application raises questions regarding a Coastal Commission CDP, including if an amendment to a CDP issued by the Coastal Commission may be necessary, instruct the applicant to contact the appropriate district office of the Coastal Commission.
- B) **Determine Whether the Proposed ADU Qualifies As Development.** The Coastal Act's permitting requirements apply to development performed or undertaken in the coastal zone. (Pub. Resources Code, § 30600, subd. (a).) Minor changes to an existing legally established residential structure that do not involve the removal or replacement of major structural components (e.g., roofs, exterior walls, foundations) and that do not change the size or the intensity of use of the structure do not qualify as development with the meaning of the Coastal Act. A junior ADU that complies with the requirements of an ordinance enacted pursuant to Government Code section 65852.22 generally will not constitute development because it will not change the building envelope and because it must contain at least one bedroom that was previously part of the primary residence. Such minor changes do not require a Coastal Act approval such as a CDP or waiver unless specified in a previously issued CDP for existing development on the lot. If questions arise regarding whether a

proposed ADU qualifies as development, please contact the appropriate district office of the Coastal Commission.

C) If the Proposed ADU Qualifies As Development, Determine Whether It Is Exempt.

Improvements such as additions to existing single-family dwellings are generally exempt from Coastal Act permitting requirements except when they involve a risk of adverse environmental effects as specified in the Coastal Commission's regulations. (Pub. Resources Code, § 30610, subd. (a); Cal. Code Regs., tit. 14, § 13250.) Improvements that qualify as exempt development under the Coastal Act and its implementing regulations do not require Coastal Act approval unless required pursuant to a previously issued CDP. (Cal. Code Regs., tit. 14, § 13250, subd. (b)(6).)

An improvement does not qualify as an exempt improvement if the improvement or the existing dwelling is located on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff. Improvements that involve significant alteration of land forms as specified in section 13250 of the Commission's regulations also are not exempt. In addition, the expansion or construction of water wells or septic systems are not exempt. Finally, improvements to structures located between the first public road and the sea or within 300 feet of a beach or the mean high tide line are not exempt if they either increase the interior floor area by 10 percent or more or increase the height by more than 10 percent. (Cal. Code Regs., tit. 14, § 13250, subd. (b).)

To qualify as an exempt improvement to a single-family dwelling, an ADU must be contained within or directly attached to the existing single-family structure. "[S]elf-contained residential units," i.e., detached residential units, do not qualify as part of a single-family residential structure and construction of or improvements to them are therefore not exempt development. (Cal. Code Regs., tit. 14, § 13250, subd. (a)(2).) Again, if questions arise regarding CDP exemption requirements, please contact the appropriate district office of the Coastal Commission.

D) If the Proposed ADU Is Not Exempt From CDP Requirements, Determine Whether A CDP Waiver is Appropriate.

If a proposed ADU qualifies as an improvement to a single-family dwelling but is not exempt, a local government may waive the requirement for a CDP if the LCP includes a waiver provision and the proposed ADU meets the criteria for a CDP waiver. Such provisions generally allow a waiver if the local government finds that the impact of the ADU on coastal resources or coastal access would be insignificant. (See Cal. Code Regs., tit. 14, § 13250, subd. (c).) In addition, they generally allow a waiver if the proposed ADU is a detached structure and the local government determines that the ADU involves no potential for any adverse effect on coastal resources and that it will be consistent with the Chapter 3 policies of the Coastal Act. (See Pub. Resources Code, § 30624.7.) Some LCPs do not provide for waivers, but may allow similar expedited approval procedures. Those other expedited approval procedures may apply. If an LCP does not include provisions

regarding CDP waivers or other similar expedited approvals, the local government may submit an LCP amendment to authorize those procedures.

- E) **If a Waiver Would Not Be Appropriate, Review CDP Application for Consistency With Certified LCP Requirements.** If a proposed ADU constitutes development, is not exempt, and is not subject to a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act, except that no local public hearing is required. (Gov. Code, § 65852.2, subd. (j).) Provide the required public notice for any CDP applications for ADUs, and process the CDP application according to LCP requirements. Once a final decision on the CDP application has been taken, send the required final local action notice to the appropriate district office of the Coastal Commission. (Cal. Code Regs., tit. 14, §§ 13565-13573.) If the ADU qualifies as appealable development, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Resources Code, § 30603.)

CALIFORNIA COASTAL COMMISSION

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TO: Planning Directors of Coastal Cities and Counties

FROM: John Ainsworth, Executive Director

RE: Implementation of New Accessory Dwelling Unit Law

DATE: November 20, 2017

On April 18, 2017, we circulated a memo intended to help local governments interpret and implement new state requirements regarding regulation of “accessory dwelling units” (ADUs) in the coastal zone. Following the enactment of AB 2299 (Bloom) and SB 1069 (Wiekowski), changes to Government Code 65852.2 now impose specific requirements on how local governments can and cannot regulate ADUs, with the goal of increasing statewide availability of smaller, more affordable housing units. Our earlier memo was intended to help coastal jurisdictions and members of the public understand how to harmonize the new ADU requirements with LCP and Coastal Act policies. This memo is meant to provide further clarification and reduce confusion about whether and how to amend LCPs in response to these changes.

Although Government Code Section 65852.2(j) states that it does not supersede or lessen the application of the Coastal Act, it would be a mistake for local governments with certified LCPs to interpret this as a signal that they can simply disregard the new law in the coastal zone. The Commission interprets the effect of subdivision (j) as preserving the authority of local governments to protect coastal resources when regulating ADUs in the coastal zone, while also complying with the standards in Section 65852.2 to the greatest extent feasible. In other words, ADU applications that are consistent with the standards in Section 65852.2 should be approved administratively, provided they are also consistent with Chapter 3 of the Coastal Act as implemented in the LCP. Where LCP policies and ordinances are already flexible enough to implement the provisions of Section 65852.2 directly, local governments should do so. Where LCP policies directly conflict with the new provisions or require refinement, those LCPs should be updated to be consistent with the new ADU statute to the greatest extent feasible while still complying with Coastal Act requirements.

Bear in mind that Section 65852.2 still preserves a meaningful level of local control by authorizing local governments to craft policies that address local realities. It allows local governments to designate areas where ADUs are allowed based on criteria such as the adequacy of public services and public safety considerations. It also explicitly allows local governments to adopt ordinances that impose certain standards, including but not limited to standards regarding height, setbacks, lot coverage, zoning density, and maximum floor area. In the coastal zone, local governments can incorporate such standards in LCP policies in order to protect Chapter 3 resources while still streamlining approval of ADUs.

Therefore, the Commission reiterates its previous recommendation that local governments amend their LCPs accordingly, using Section 65852.2 as a blueprint for crafting objective

standards related to design, floor area, parking requirements and processing procedures for ADUs in a manner that protects wetlands, sensitive habitat, public access, scenic views of the coast, productive agricultural soils, and the safety of new ADUs and their occupants. Depending on the individual LCP, such amendments might include:

- Updating the definition of an ADU (variously referred to in existing LCPs as second units, granny units, etc.)
- Implementing an administrative review process for ADUs that includes sufficient safeguards for coastal resources
- Re-evaluating the minimum and maximum ADU floor area and related design standards
- Specifying that ADUs shall not be required to install new or separate utility connections
- For ADUs contained within existing residences or accessory structures, eliminating local connection fees or capacity charges for utilities, water and sewer services.
- Providing for ministerial approval of Junior Accessory Dwelling Units (JADUs)
- Clarifying that no more than one additional parking space per bedroom is required
- Eliminating off-street parking requirements for ADUs located within a ½ mile of public transit, an architecturally significant historic district, an existing primary residence or accessory structure, one block of a car share vehicle, or where on-street parking permits are required but not offered to the occupant of an ADU

This is just a partial list, as specific changes will depend on existing LCP policies as well as unique local resource constraints. See our earlier memo for additional recommendations.

We are currently conducting a survey to identify the number of local governments which have already initiated the amendment process. For those that have not, Commission staff strongly urges those jurisdictions to do so in the very near future.

To expedite the process, the Commission will process ADU-specific LCPAs as minor or de minimis amendments whenever possible. We realize that procedural requirements for public review and participation can be time consuming, and will strive to complete the Commission's review process expeditiously. In the interim, we urge local governments to consider which provisions of Section 65852.2 might be implemented administratively, through existing procedures, definitions, or variances. Because each LCP is distinct and unique to its particular jurisdiction, some are inherently more flexible than others. We strongly suggest applying any existing discretion in a manner that conforms to Section 65852.2 as well as your LCP.

We acknowledge that because of the nature of our state/local partnership the Commission cannot compel local governments to undertake these amendments. The foregoing advice is offered in the spirit of our mutual goals and responsibilities of preserving both Coastal Act objectives and local control of planning and permitting decisions. We are grateful that the Legislature elected to preserve the integrity of the Coastal Act when it passed these bills. We are also mindful that this did not reflect any intent to discourage ADUs in the coastal zone, but rather to ensure that new ADU incentives are implemented in a way that does not harm coastal resources. In order to maintain the Legislature's continued support for this approach, and avoid the imposition of unilateral coastal standards for ADUs in the future, it is essential to demonstrate that these housing policies can and will be responsibly implemented in the coastal zone.

My staff and I remain ready and available to assist in this effort.

CALIFORNIA COASTAL COMMISSION

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director
Re: Implementation of New ADU Laws
Date: April 21, 2020

The Coastal Commission has previously circulated two memos to help local governments understand how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”). As of January 1, 2020, AB 68, AB 587, AB 670, AB 881, and SB 13 each changed requirements on how local governments can and cannot regulate ADUs and JADUs, with the goal of increasing statewide availability of smaller, more affordable housing units. This memo is meant to describe the changes that went into effect on January 1, 2020, and to provide guidance on how to harmonize these new requirements with Local Coastal Program (“LCP”) and Coastal Act policies.

Coastal Commission Authority Over Housing in the Coastal Zone

The Coastal Act does not exempt local governments from complying with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households. (Pub. Res. Code § 30604(f).) New residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.) The creation of new ADUs in existing residential areas is a promising strategy for increasing the supply of lower-cost housing in the coastal zone in a way that may be able to avoid significant adverse impacts on coastal resources.

This memorandum is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is generally responsible for Coastal Act review of ADUs in areas that are not subject to fully certified LCPs. Local governments that have questions about specific circumstances not addressed in this memorandum should contact the appropriate district office of the Commission.

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Overview of New Legislation¹

The new legislation effective January 1, 2020 updates existing Government Code Sections 65852.2 and 65852.22 concerning local government procedures for review and approval of ADUs and JADUs. As before, local governments have the discretion to adopt an ADU ordinance that is consistent with state requirements. (Gov. Code § 65852.2(a).) AB 881 (Bloom) made numerous significant changes to Government Code section 65852.2. In their ADU ordinances, local governments may still include specific requirements addressing issues such as design guidelines and protection of historic structures. However, per the recent state law changes, a local ordinance may not require a minimum lot size, owner occupancy of an ADU, fire sprinklers if such sprinklers are not required in the primary dwelling, or replacement offstreet parking for carports or garages demolished to construct ADUs. In addition, a local government may not establish a maximum size for an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom. (Gov. Code § 65852.2(c)(2)(B).) Section 65852.2(a) lists additional mandates for local governments that choose to adopt an ADU ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).)

Some local governments have already adopted ADU ordinances. Existing or new ADU ordinances that do *not* meet the requirements of the new legislation are null and void, and will be substituted with the provisions of Section 65852.2(a) until the local government comes into compliance with a new ordinance. (Gov. Code § 65852.2(a)(4).) However, as described below, existing ADU provisions contained in certified LCPs are not superseded by Government Code section 65852.2 and continue to apply to CDP applications for ADUs until an LCP amendment is adopted. One major change to Section 65852.2 is that the California Department of Housing and Community Development (“HCD”) now has an oversight and approval role to ensure that local ADU ordinances are consistent with state law, similar to the Commission’s review of LCPs. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h).)

If a local government does *not* adopt an ADU ordinance, state requirements will apply directly. (Gov. Code § 65852.2(b)–(e).) Section 65852.2 subdivisions (b) and (c) require that local agencies shall ministerially approve or disapprove applications for permits to create ADUs. Subdivision (e) requires ministerial approval, whether or not a local government has adopted an ADU ordinance, of applications for building permits of the following types of ADUs and JADUs in residential or mixed use zones:

- One ADU or JADU per lot *within* a proposed or existing single-family dwelling or existing space of a single-family dwelling or accessory structure, including an expansion of up to 150 square feet beyond the existing dimensions of an existing accessory structure; with exterior access from the proposed or existing single-family

¹ This Guidance Memo only provides a partial overview of new legislation related to ADUs. The Coastal Commission does not interpret or implement these new laws.

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dwelling; side and rear setbacks sufficient for fire and safety; and, if a JADU, applicant must comply with requirements of Section 65852.22; (§ 65852.2(e)(1)(A)(i)-(iv))

- One detached, new construction ADU, which may be combined with a JADU, so long as the ADU does not exceed four-foot side and rear yard setbacks for the single family residential lot; (§ 65852.2(e)(1)(B))
- Multiple ADUs within the portions of existing multifamily dwelling structures that are not currently used as dwelling spaces; (§ 65852.2(e)(1)(C))
- No more than two detached ADUs on a lot that has an existing multifamily dwelling, subject to a 16-foot height limitation and four-foot rear yard and side setbacks. (§ 65852.2(e)(1)(D))

ADUs and JADUs created pursuant to Subdivision (e) must be rented for terms greater than 30 days. (Gov. Code § 65852.2(e)(4).)

What Should Local Governments in the Coastal Zone Do?

1) Update Local Coastal Programs (LCPs)

Local governments are required to comply with both these new requirements for ADUs/JADUs and the Coastal Act. Currently certified provisions of LCPs are not, however, superseded by Government Code section 65852.2, and continue to apply to CDP applications for ADUs until an LCP amendment is adopted. Where LCP policies directly conflict with the new provisions or require refinement to be consistent with the new laws, those LCPs should be updated to be consistent with the new ADU provisions to the greatest extent feasible, while still complying with Coastal Act requirements.

As noted above, Section 65852.2 expressly allows local governments to adopt local ordinances that include criteria and standards to address a wide variety of concerns, including potential impacts to coastal resources. For example, a local government may address reductions in parking requirements that would have a direct impact on public access. As a result, we encourage local governments to identify the coastal resource context applicable in a local jurisdiction and ensure that any proposed ADU-related LCP amendment appropriately addresses protection of coastal resources consistent with the Coastal Act at the same time that it facilitates ADUs/JADUs consistent with the new ADU provisions. For example, LCPs should ensure that new ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas, wetlands, or in areas where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime. Our staff is available to assist in the efforts to amend LCPs.

Please note that LCP amendments that involve purely procedural changes, that do not propose changes in land use, and/or that would have no impacts on coastal resources may be eligible for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); Cal. Code Regs., tit. 14, § 13554.) The Commission will process ADU-specific LCP amendments as minor or de minimis amendments whenever possible.

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2) Follow This Basic Guide When Reviewing ADU or JADU Applications**a. Check Prior CDP History for the Site.**

Determine whether a CDP was previously issued for development of the lot and whether that CDP limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP limits the applicant's ability to apply for an ADU or JADU.

b. Determine Whether the Proposed ADU or JADU Qualifies as Development.

Any person "wishing to perform or undertake any development in the coastal zone" shall obtain a CDP. (Pub. Res. Code § 30600.) Development as defined in the Coastal Act includes not only "the placement or erection of any solid material or structure" on land, but also "change in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.) Government Code section 65852.2 states that an ADU that conforms to subdivision (a) "shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot." (Gov. Code § 65852.2(a)(8).)

Conversion of an existing legally established room(s) to create a JADU or ADU within an existing residence, without removal or replacement of major structural components (i.e. roofs, exterior walls, foundations, etc.) and that do not change the size or the intensity of use of the structure may not qualify as development within the meaning of the Coastal Act, or may qualify as development that is either exempt from coastal permit requirements and/or eligible for streamlined processing (Pub. Res. Code §§30106 and 30610), see also below. JADUs created within existing primary dwelling structures that comply with Government Code Sections 65852.2(e) and 65852.22 typically will fall into one of these categories, unless specified otherwise in a previously issued CDP or other coastal authorization for existing development on the lot. However, the conversion of detached structures associated with a primary residence to an ADU or JADU may involve a change in the size or intensity of use that would qualify as development under the Coastal Act and require a coastal development permit, unless determined to be exempt or appropriate for waiver.

c. If the Proposed ADU Qualifies as Development, Determine Whether It Is Exempt.

Improvements such as additions to existing single-family dwellings are generally exempt from Coastal Act permitting requirements except when they involve a risk of adverse environmental effects as specified in the Commission's regulations. (Pub. Res. Code § 30610(a); Cal. Code Regs., tit. 14, § 13250.) Improvements that qualify as exempt development under the Coastal Act and its implementing regulations do not require a CDP from the Commission or a local government unless required pursuant to a previously issued CDP. (Cal. Code Regs., tit. 14, § 13250(b)(6).)

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Typically, the construction or conversion of an ADU/JADU contained within or directly attached to an existing single-family residence would qualify as an exempt improvement to a single-family residence. (Cal. Code Regs., tit. 14, § 13250(a)(1).) Guest houses and “self-contained residential units,” i.e. detached residential units, do not qualify as part of a single-family residential structure, and construction of or improvements to them are therefore not exempt development. (Cal. Code Regs., tit. 14, § 13250(a)(2).)

d. If the Proposed ADU is Not Exempt from CDP Requirements, Determine Whether a CDP Waiver Is Appropriate.

If the LCP includes a waiver provision, and the proposed ADU or JADU meets the criteria for a CDP waiver the local government may waive the permit requirement for the proposed ADU or JADU. The Commission generally has allowed a waiver for proposed *detached* ADUs if the executive director determines that the proposed ADU is de minimis development, involving no potential for any adverse effects on coastal resources and is consistent with Chapter 3 policies. (See Pub. Res. Code § 30624.7.)

Some LCPs do not allow for waivers, but may allow similar expedited approval procedures. Those other expedited approval procedures may apply. If an LCP does not include provisions regarding CDP waivers or other similar expedited approvals, the local government may submit an LCP amendment to authorize those procedures.

e. If a Waiver Would Not Be Appropriate, Review CDP Application for Consistency with Certified LCP Requirements.

If a proposed ADU constitutes development, is not exempt, and is not subject to a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government then must provide the required public notice for any CDP applications for ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law if feasible. Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the ADU qualifies as appealable development, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

Information on AB 68, AB 587, AB 670, and SB 13

JADUs – AB 68 (Ting)

JADUs are units of 500 square feet or less, contained entirely within a single-family residence or existing accessory structure. (Gov. Code §§ 65852.2(e)(1)(A)(i) and 65852.22(h)(1).) AB 68 (Ting) made several changes to Government Code section 65852.22, most notably regarding the creation of JADUs pursuant to a local government ordinance. Where a local

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government has adopted a JADU ordinance, “[t]he ordinance may require a permit to be obtained for the creation of a [JADU].” (Gov. Code § 65852.22(a).) If a local government adopts a JADU ordinance, a maximum of one JADU shall be allowed on a lot zoned for single-family residences, whether they be proposed or existing single-family residences. (Gov. Code § 65852.22(a)(1).) (This formerly only applied to *existing* single-family residences. Now, proposals for a new single-family residence can include a JADU.) Efficiency kitchens are no longer required to have sinks, but still must include a cooking facility with a food preparation counter and storage cabinets of reasonable size relative to the space. (Gov. Code § 65852.22(a)(6).) Applications for permits pursuant to Section 65852.22 shall be considered ministerially, within 60 days, if there is an existing single-family residence on the lot. (Gov. Code § 65852.22(c).) (Formerly, complete applications were to be acted upon within 120 days.)

If a local government has *not* adopted a JADU ordinance pursuant to Section 65852.22, the local government is required to ministerially approve building permit applications for JADUs within a residential or mixed-use zone pursuant to Section 65852.2(e)(1)(A). (Gov. Code § 65852.22(g).) That section is detailed in bullet points on pages two-three of this memorandum and refers to specific ADU and JADU approval scenarios.

Sale or Conveyance of ADUs Separately from Primary Residence – AB 587 (Friedman)

AB 587 (Friedman) added Section 65852.26 to the Government Code to allow a local government to, by ordinance, allow the conveyance or sale of an ADU separately from a primary residence if several specific conditions all apply. (Gov. Code § 65852.26.) This section only applies to a property built or developed by a qualified nonprofit corporation, which holds enforceable deed restrictions related to affordability and resale to qualified low-income buyers, and holds the property pursuant to a recorded tenancy in common agreement. Please review Government Code Section 65852.26 if such conditions apply.

Covenants and Deed Restrictions Null and Void – AB 670 (Friedman)

AB 670 added Section 4751 to the California Civil Code, making void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an ADU or JADU on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code.

Delayed Enforcement of Notice to Correct a Violation – SB 13 (Wieckowski)

SB 13 (Wieckowski) Section 3 added Section 17980.12 to the Health and Safety Code. The owner of an ADU who receives a notice to correct a violation can request a delay in enforcement, if the ADU was built before January 1, 2020, or if the ADU was built after January 1, 2020, but the jurisdiction did not have a compliant ordinance at the time the request to fix the violation was made. (Health & Saf. Code § 17980.12.) The owner can request a delay of five (5) years on the basis that correcting the violation is not necessary to protect health and safety. (Health & Saf. Code § 17980.12(a)(2).)

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

RE: Updates Regarding the Implementation of New ADU Laws

I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that “[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

III. Overview of New Legislation

As of January 1, 2020, [AB 68](#), [AB 587](#), [AB 881](#), [AB 670](#), [AB 671](#), and [SB 13](#) collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.
- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)
- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/ADU

ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant’s ability to apply for a J/ADU.

2) Determine whether the proposed J/ADU constitutes “development.”

As defined by the Coastal Act, development refers to both “the placement or erection of any solid material or structure” on land as well as any “change[s] in the density or intensity of use of land[.]” (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission’s implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that “the creation of a self-contained living unit, in the form of an ADU, is not an ‘improvement’ to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property.”¹ On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government’s proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission’s recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.

3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.

If a local government’s LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. The Commission has generally allowed a CDP waiver for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission’s regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state’s J/ADU provisions, public hearings are not required for qualifying development.

¹ See Coastal Commission [staff report](#), pp. 16-17 (Commission acted on this item on December 17, 2021).

Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)

Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.

Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.

4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

- a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.
- b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

- a. Within ½ mile walking distance of public transportation stops/routes;
- b. Within a historic district;
- c. Within a primary residence or accessory structure;
- d. When on-street parking permits are required but not offered to the occupant of the ADU;

- e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with 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 (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

[City of Santa Cruz \(approved May 2021\)](#). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

[City of Pacifica \(approved June 2021\)](#). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

[County of San Mateo \(approved July 2021\)](#). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

City of Encinitas (approved August 2021). The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

City of Santa Barbara (approved December 2021). The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).

This document was developed using federal financial assistance provided by the Coastal Zone Management Act, as amended, under award NA20NOS4190101, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author and do not necessarily reflect the views of the National Oceanic and Atmospheric Administration or the U.S. Department of Commerce.

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: Re: Categorical Exclusion Notice
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: Spencer, Amrita@Coastal <Amrita.Spencer@coastal.ca.gov>
Sent: May 15, 2024 1:58 PM (UTC-04:00)

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

I wanted to discuss this topic with others here before responding to your comments below. I now have their input which is included in this response.

The LCP IP section cited below means that the City is not precluded from requesting an amendment to the current cat ex or from requesting a new cat ex to exclude ADUs. Such a request would need to be approved by the Coastal Commission. But that IP section does not and cannot add new development categories to the City's Coastal Commission approved cat ex. Addition of new cat ex categories would require a ccc action on a cat ex amendment or on a new cat ex.

Likewise, whether or not ADUs as a cat ex development category would have potentially significant adverse effect must be determined via review of a categorical exclusion request by the Coastal Commission.

The City's approved categorical exclusion order does not include ADUs and so ADUs cannot be excluded under the approved cat ex.

Please let me know if you have further questions.

Thank you,

Meg Vaughn

Coastal Program Analyst

California Coastal Commission

meg.vaughn@coastal.ca.gov

From: Dobson, Amber CD <adobson@lagunabeachcity.net>

Sent: Monday, May 13, 2024 6:54 PM

To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Subject: RE: Categorical Exclusion Notice

Hi Meg,

I want to bring to your attention that 25.17.030 (B)(1) states that ADUs can be excluded. See below. This language was certified by Coastal.

(B)

Exceptions to Ministerial Review. Discretionary review may be required as follows.

(1)

Coastal Zone. ADUs that are not exempted or excluded under Chapter 25.07 (Coastal Development Permits) require issuance of a coastal development permit, subject to the noticing and appeal requirements in that chapter.

Thank you for sending the letter addressed to San Clemente. Their Cat Ex Order specifically refers to "appurtenant structures," while the City of Laguna Beach's does not. We understand that "Appurtenant" may be different from "Accessory."

The Cat Ex order was certified by the Commission and it was found that the category of development (Single family residential) in the approved Cat Ex areas has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. Therefore, it follows that development of ADUs also does not have any significant adverse effects on coastal resources (with ADUs being defined as accessory to the primary unit and are fundamentally part of single family residential development

according to HCD, or in other words, development of the ADU does not cause a single family to be re-classified as a duplex).

The ministerial ADUs are required to conform to 25.17 which includes protection of coastal resources: watercourse and blufftop setbacks, and replacement parking, all required outside of the context of a CDP, among other things. Because these requirements apply outside of a CDP and apply to all ministerially approved ADUs, we believe that adequate protection of coastal resources is provided under the Cat Ex order.

Thank you for your reconsideration.

-Amber

From: Dobson, Amber CD
Sent: Monday, May 6, 2024 1:31 PM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: RE: Categorical Exclusion Notice

Hi Meg,

So the determination is that no ADUs will qualify for the Exclusion because it does not fall under “single family residential development”? correct?

-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Thursday, May 2, 2024 1:29 PM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Subject: Re: Categorical Exclusion Notice

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

The City of Laguna Beach had a Categorical Exclusion Order (E-79-4) prior to certification of its LCP. Once the LCP was certified, that CEO was automatically terminated pursuant to ccc regulations Section 13249(b).

After certification of the LCP, the City submitted a new Categorical Exclusion request, which was ultimately approved (CEO E-93-1).

Please let me know if you have any further questions.

Thank you,

Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: Thursday, May 2, 2024 1:16 PM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Subject: RE: Categorical Exclusion Notice

Hi Meg,

Can you also provide information on Categorical Exclusion Order E-79-4 ?

-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Sent: Thursday, May 2, 2024 10:37 AM

To: Dobson, Amber CD <adobson@lagunabeachcity.net>

Subject: Categorical Exclusion Notice

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

We received the Categorical Exclusion Notice for the project at 1673 Louise Street (Case No. ZPC 2023-1391).

We have also researched the status of the City's Categorical Exclusion Order No. E-93-1. That Order remains in effect as approved by the Coastal Commission May 13, 1993, and becoming fully effective upon receipt of the final maps in 1994. No changes to Categorical Exclusion Order No. E-93-1 since that approval have been approved by the Coastal Commission.

Regarding residential development, approved Categorical Exclusion Order E-93-1 excludes from coastal development permit requirements single family residential development in the eleven areas identified in the Order. The Order does not exclude the addition of Accessory Dwelling Units (ADUs) to existing single family residences. Therefore, the subject project (Case No. ZPC 2023-1391) does not qualify for a categorical exclusion.

Attached is a 2021 letter to the City of San Clemente on this subject, with attached CCC memos on the topic. Also attached is a more recent CCC memo (1/21/2022) on this topic.

Please let me know if you have any questions.

Thank you,

Meg Vaughn

Coastal Program Analyst

California Coastal Commission

meg.vaughn@coastal.ca.gov

From: Dulalia, Michelle CD </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1F0C571B815A4D9EBB9D55375F95350D-DULALIA, MI>
Subject: 1673 Louise Street
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Cc: Latham, Daniel CD <dlatham@lagunabeachcity.net>; Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: April 26, 2024 7:03 PM (UTC-04:00)
Attached: 1673 Louise Street - Notice of Action.pdf, 1673 Louise Street_ADU Cleared to BPC.pdf
Hello,

Attached is the Notice of Action and approved plans for the ADU proposal at 1673 Louise Street. Please let me know if any other documentations are required.

Thank you!

Best,

Michelle Dulalia

Senior Office Specialist - Planning Division
City of Laguna Beach (949) 497-0329

<https://www.lagunabeachcity.net/government/departments/community-development>



NOTICE OF ACTION

Categorical Exclusion Order E-93-1

Application Filing Date: April 24, 2024
Case No.: ZPC 2023-1391
Address: 1673 Louise Street | APN: 053-103-10
Applicant: Warren Hutcherson
Property Owner: Reinecke
City Staff: Daniel Latham, Associate Planner at dlatham@lagunabeachcity.net or (949) 464-6612

PROJECT DESCRIPTION: New 810 square-foot attached Accessory Dwelling Unit.

CEQA: This project is categorically exempt pursuant to California Environmental Quality Action Section 15303 - New Construction or Conversion of Small Structures, in that the project consists of construction and location of limited numbers of new, small structures.

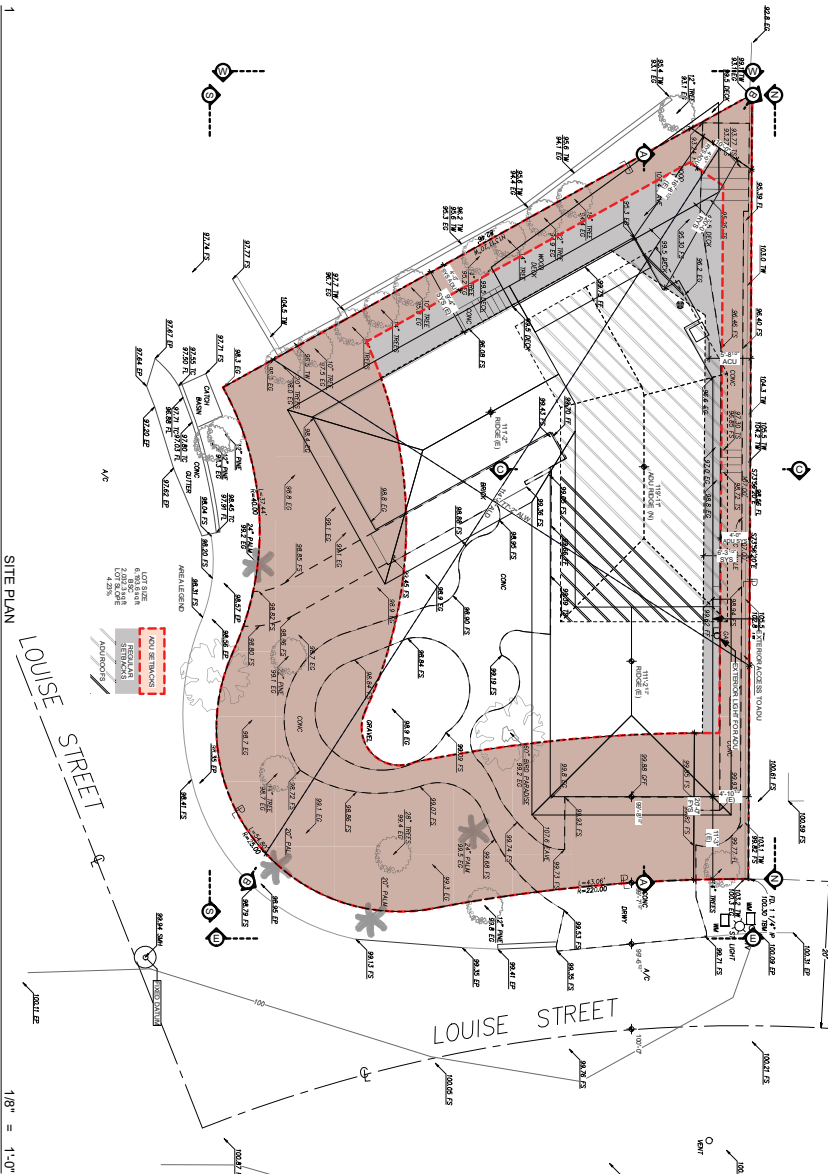
Other Entitlements: None

FINDINGS:

The project site falls within the mapped Categorical Exclusion Order area. The project falls within the development categories that do not require a Coastal Development Permit per the Categorical Exclusion Order. The project conforms to the City's certified Local Coastal Plan.

CONDITIONS OF APPROVAL:

1. This approval is not effective until 20 working days have elapsed following the Coastal Commission's receipt of notification.
2. The conditions of approval shall be and hereby are obligations of and binding upon the applicant and his/her heirs, successors, assigns, agents and representatives. The conditions shall constitute a covenant running with and binding the land in accordance with the provisions of California Civil Code Section 1468. Failure to comply with such conditions, and each of them, and any other related federal, state and local regulations may be grounds for revocation of the approval, in addition to other remedies that may be available to the City.
3. The applicable Certificate of Use and/or Certificate of Occupancy shall not be issued until City staff has verified compliance with all conditions of approval.
4. Prior to Building Permit issuance, the owner, his architect/designer/structural engineer, and contractor of the subject property shall sign an Affidavit of Plan Consistency, whereby the signees affirm that the structural plans are consistent with the Zoning Division-approved set of plans and any modification will require subsequent review and approval.
5. In the absence of specific provisions or conditions herein to the contrary, the application and all relevant plans and exhibits are incorporated and made a part of this approval. It is required that such plans and exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this approval has been granted shall not be substantially changed or substantially amended except pursuant to a subsequent approval as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.
6. The permittee shall defend, hold harmless and indemnify, at his/her/its expense, the City, the City Council and other City bodies and members thereof, officials, officers, employees, agents and representatives (collectively, the City) from and against any and all third-party claims, actions or proceedings to attack, set aside, void or annul this approval, or any associated determination made pursuant to the California Environmental Quality Act. This obligation shall encompass all costs and expenses incurred by the City in defending against any claim, action or proceeding, as well as costs, expenses or damages the City may be required by a court to pay as a result of such claim, action or proceeding.
7. Light trespass that results in glare is prohibited.
8. Outdoor lighting must be hooded, fully shielded, and aimed downward.



SITE PLAN

1/8" = 1'-0"

3D CAD SERVICES

2435 LAGUNA CANYON RD.
LAGUNA BEACH, CA. 92651
(949) 338-6905

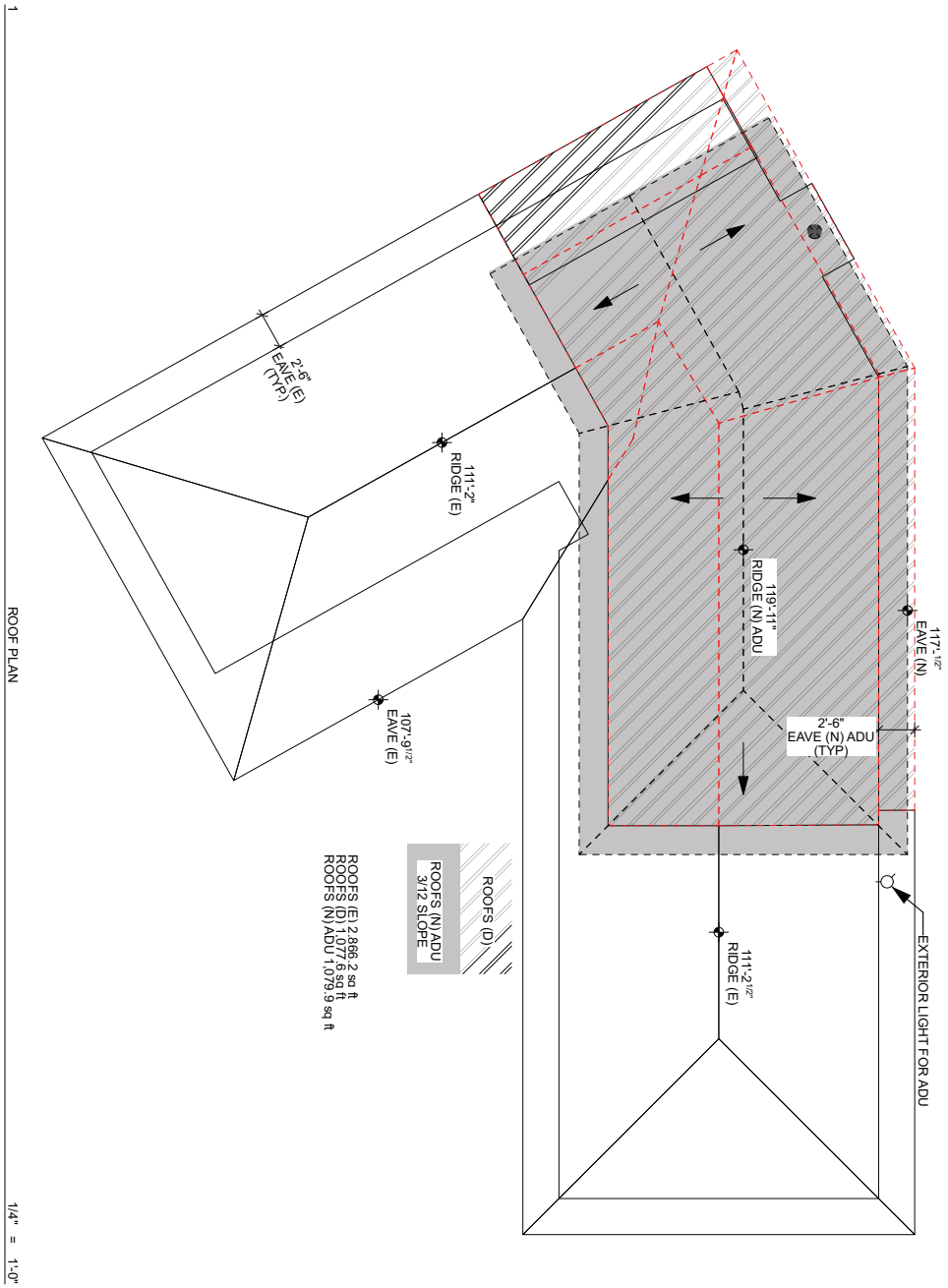
REVISIONS

SITE PLAN

ADDITION AND REMODEL, ADU
STEVE AND KAREN REINECKE
1673 A & 1673 B LOUISE ST.
LAGUNA BEACH CA

DESIGN CONSULTANT:
NATHAN W. JOHNSON
DATE: **4/4/24**
CHECKED: VJH
JOB #: REINECKE

SHEET #:
A1



1
ROOF PLAN
1/4" = 1'-0"

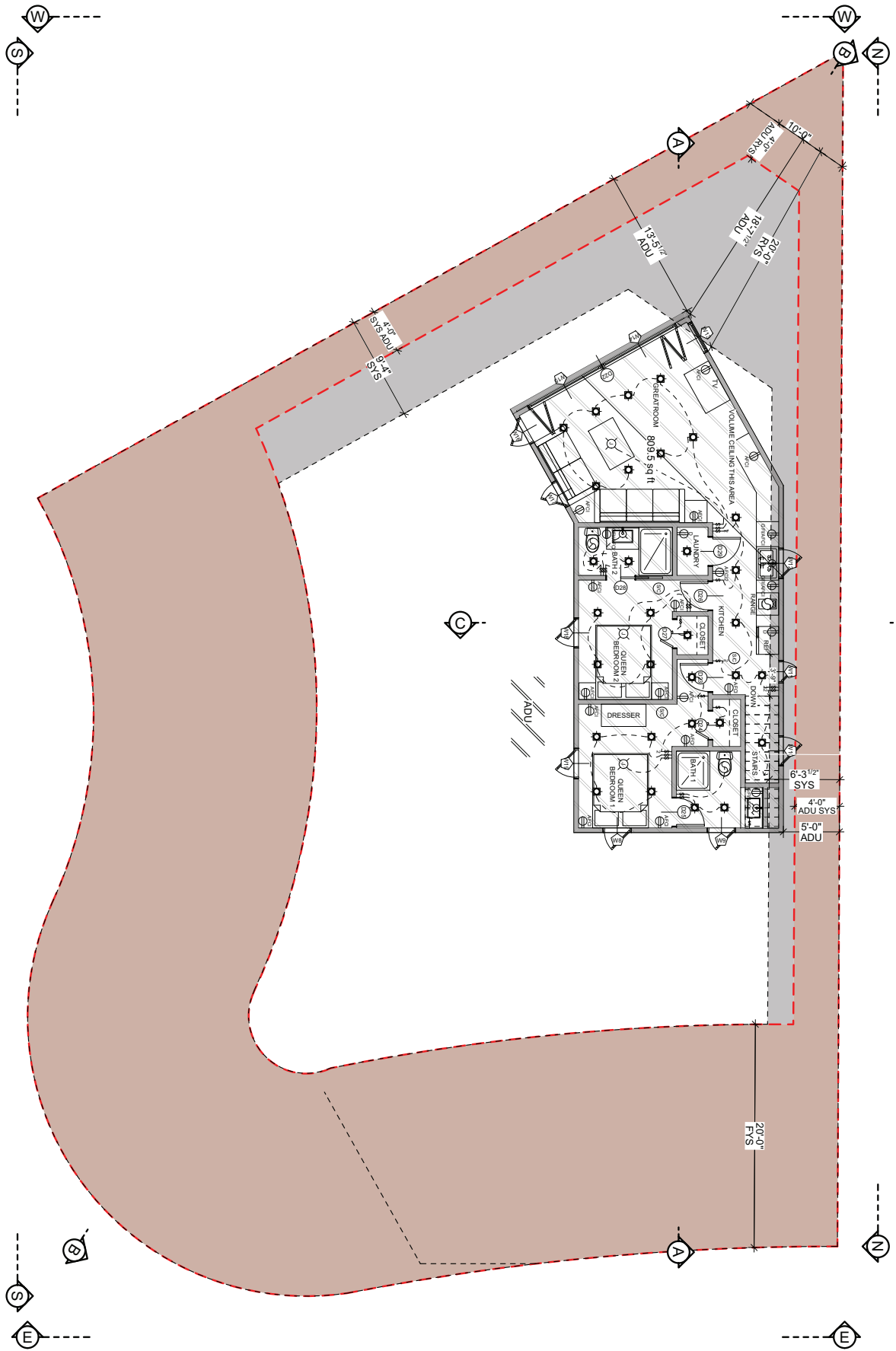
ROOFS (D)
3/12 SLOPE

ROOFS (E) 12,888.2 sq ft
ROOFS (N) ADU 1,579.9 sq ft

<p>3D CAD SERVICES 2435 LAGUNA CANYON RD. LAGUNA BEACH, CA. 92651 (949) 338-6905</p>	<p>REVISIONS</p>
	<p>DATE: 4/4/24</p>
<p>DESIGN CONSULTANT: NARRIS WILSON</p>	<p>ADDITION AND REMODEL, ADU</p>
<p>CHECKED: VJA</p>	<p>STEVE AND KAREN REINECKE 1673 A & 1673 B LOUISE ST. LAGUNA BEACH CA</p>
<p>JOB #: REINECKE</p>	<p>DATE: 4/4/24</p>
<p>SHEET #:</p>	<p>A2</p>

UPPER FLOOR PLAN

1/4" = 1'-0"



1

UPPER FLOOR PLAN

1/4" = 1'-0"

A4

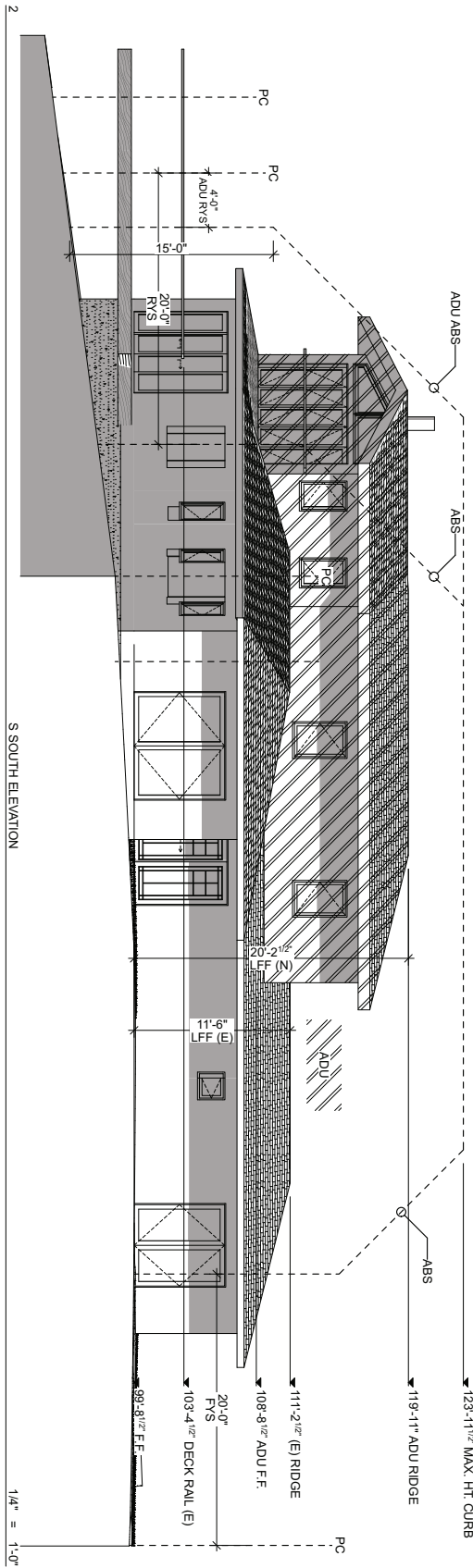
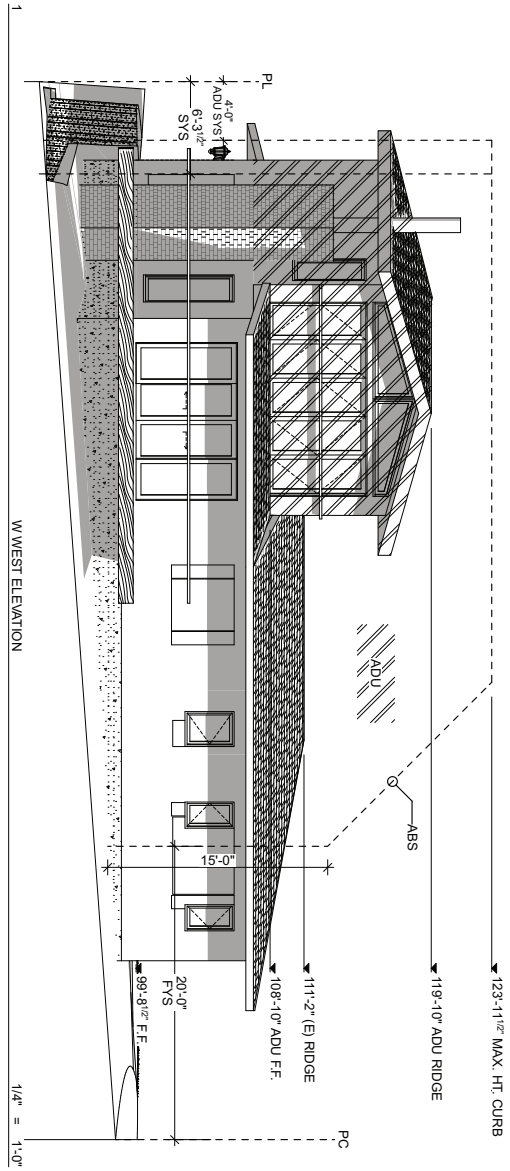
DESIGN CONSULTANT
 MARIANNE OLSEN
 DATE: 4/1/24
 CHECKED: VJH
 JOB #: REINECKE

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

UPPER FLOOR PLAN

REVISIONS

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 LAGUNA BEACH, CA. 92651
 (949) 338-6905

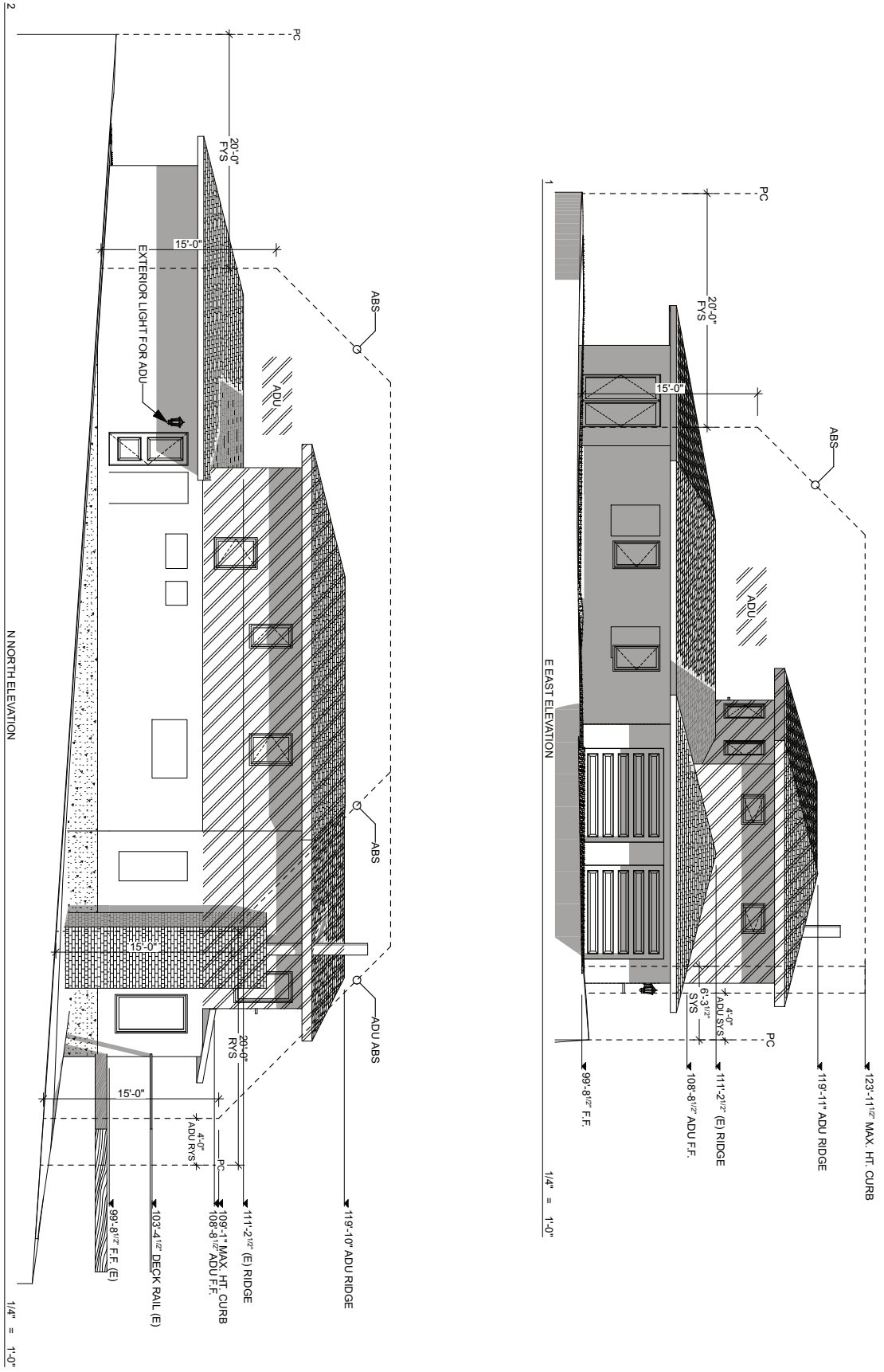
REVISIONS

ELEVATIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT
 MARIANNE OLSEN
 DATE: **4/4/24**
 CHECKED: WH
 JOB #: REINECKE

SHEET #:
A6



3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

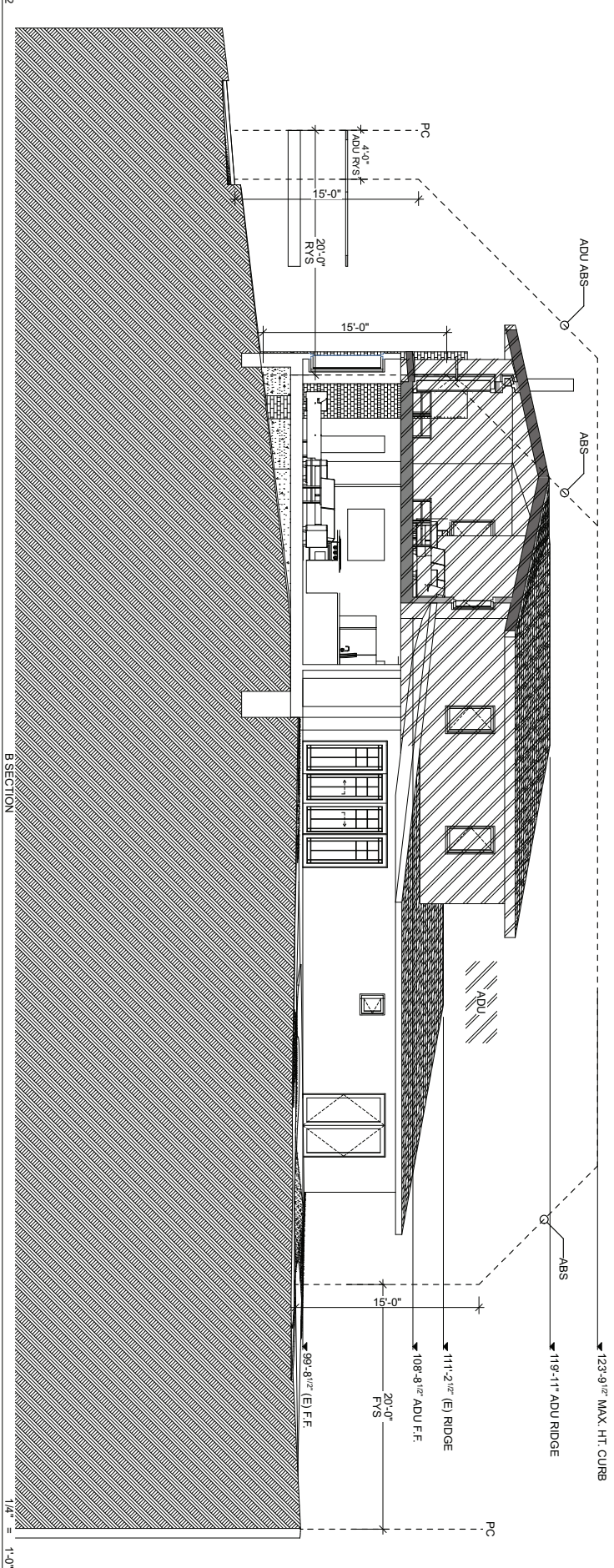
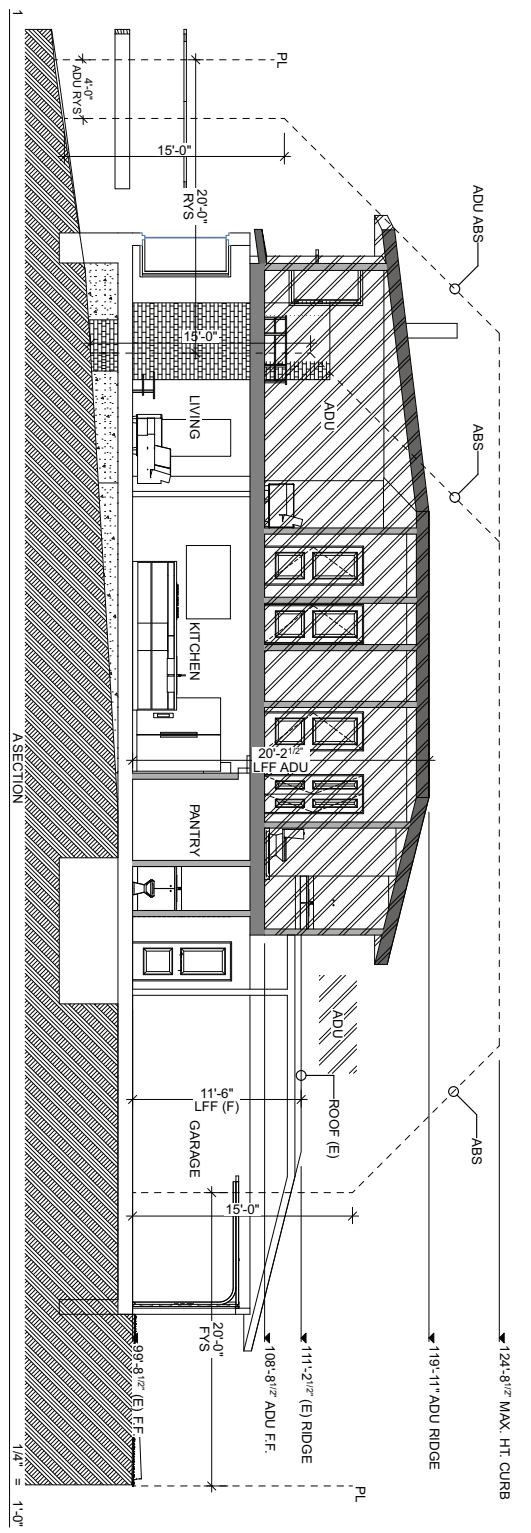
REVISIONS	

ELEVATIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT:
 MARIANNA OLSEN
 DATE: **4/4/24**
 CHECKED: VJH
 JOB #: REINECKE

SHEET #: **A7**

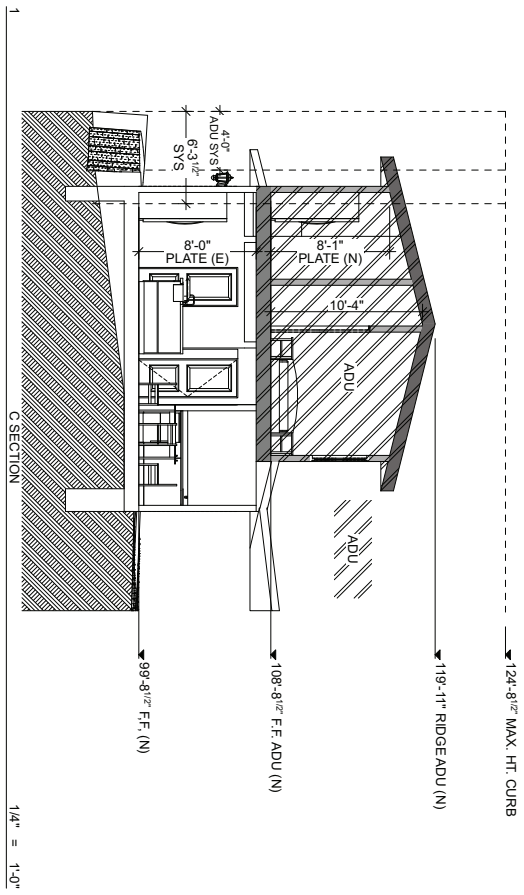


3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

SECTIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT:
 MARIANNE GRIFFIN
 DATE: **4/4/24**
 CHECKED: WH
 JOB # REINECKE
 SHEET #:
A8



3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

REVISIONS

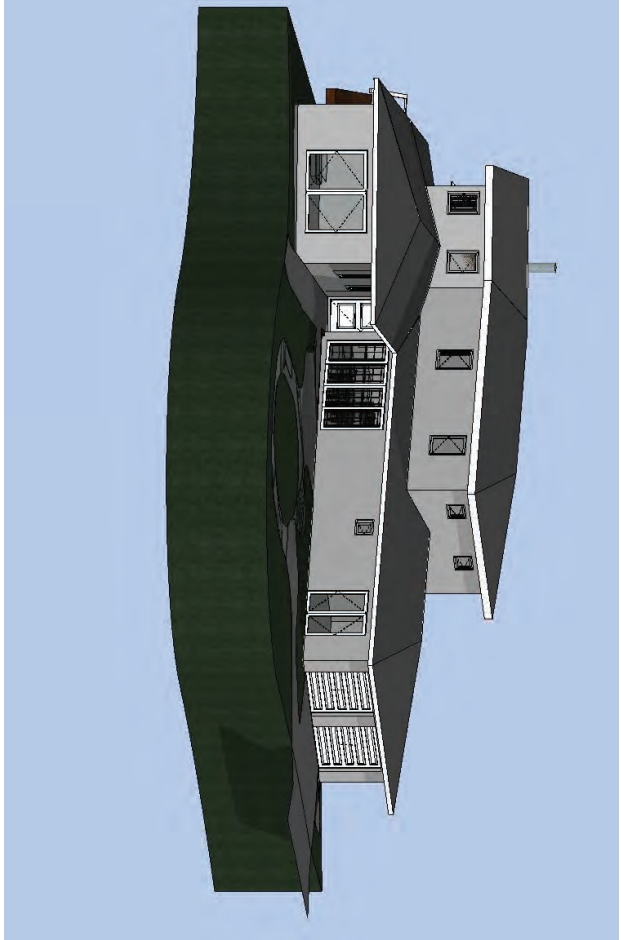
SECTIONS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

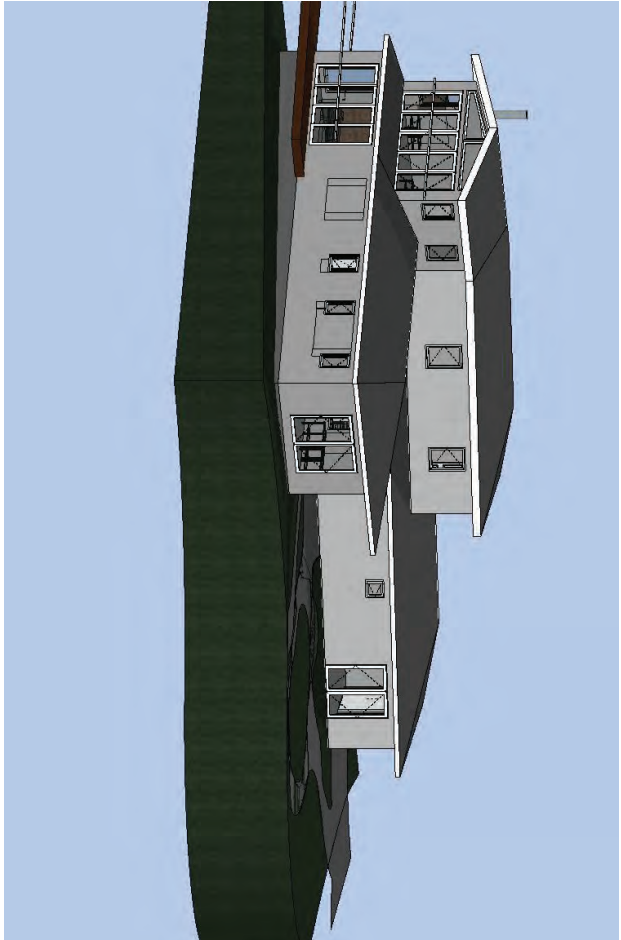
DESIGN CONSULTANT
 MARIANNE OLSEN
 DATE: **4/4/24**
 CHECKED: WH
 JOB #: REINECKE

SHEET #:

A9



30



30



30



30

3D VIEWS

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

DESIGN CONSULTANT
 MARIANNE JOHNSON
 DATE: 4/12/24
 CHECKED: VJH
 JOB #: REINECKE
 SHEET #:
A10

DOOR SCHEDULE

NO	W x H Size	REMARKS
D1	8'-0" x 7'-0"	GARAGE DOOR
D2	2'-6" x 6'-8"	GARAGE DOOR
D3	2'-6" x 6'-8"	EXTERIOR SOLID ADU ENTRY DOOR
D4	12'-2" x 6'-10"	FOUR PANEL SLIDING
D5	9'-0" x 6'-8"	DUAL FRENCH
D6	3'-6" x 6'-8"	FRONT DOOR
D7	12'-2" x 6'-10"	FOUR PANEL SLIDING
D8	6'-0" x 6'-8"	DUAL FRENCH
D9	2'-6" x 6'-8"	20 MINUTE FIRE DOOR
D10	2'-6" x 6'-8"	INTERIOR SOLID
D11	2'-6" x 6'-8"	INTERIOR SOLID
D12	2'-6" x 6'-8"	INTERIOR SOLID POCKET
D13	2'-6" x 6'-8"	INTERIOR SOLID
D14	2'-6" x 6'-8"	INTERIOR SOLID
D15	2'-6" x 6'-8"	INTERIOR SOLID
D16	2'-6" x 6'-8"	INTERIOR SOLID
D17	4'-0" x 6'-8"	INTERIOR SOLID SLIDING
D18	4'-0" x 6'-8"	INTERIOR SOLID SLIDING
D19	2'-4" x 6'-8"	INTERIOR SOLID
D20	2'-6" x 6'-8"	INTERIOR SOLID
D21	2'-6" x 6'-8"	INTERIOR SOLID
D22	15'-0" x 6'-8"	BIFOLD FIVE PANEL
D23	2'-6" x 6'-8"	INTERIOR SOLID
D24	2'-6" x 6'-8"	INTERIOR SOLID
D25	2'-6" x 6'-8"	INTERIOR SOLID
D26	2'-6" x 6'-8"	INTERIOR SOLID
D27	2'-6" x 6'-8"	INTERIOR SOLID
D28	2'-6" x 6'-8"	INTERIOR SOLID POCKET
D29	2'-6" x 6'-8"	INTERIOR SOLID

NOTE: ALL WINDOW GLAZING SHALL BE DUAL GLAZED LOW E TEMPERED OUTSIDE FILLS OR THERMOPANE NOTE: ALL DOOR GLAZING SHALL BE THERMOPANE AND PERMANENT LABELS. SEE T34 SHEETS FOR U-FACTORS AND SHGC.

WINDOW SCHEDULE

NO	W x H Size	REMARKS
W1	2'-6" x 4'-0"	CASEMENT
W2	2'-6" x 4'-0"	CASEMENT
W3	2'-0" x 2'-0"	CASEMENT
W4	3'-6" x 6'-2"	FIXED
W5	2'-6" x 3'-4"	CASEMENT
W6	2'-0" x 3'-4"	CASEMENT
W7	2'-0" x 3'-4"	CASEMENT
W8	2'-6" x 2'-0"	CASEMENT
W9	2'-6" x 2'-0"	CASEMENT
W10	2'-6" x 3'-8"	CASEMENT
W11	2'-0" x 3'-8"	CASEMENT
W12	2'-6" x 3'-8"	CASEMENT
W13	3'-0" x 5'-0"	FIXED
W14	7'-6" x 2'-10"	FIXED TRAPZOID
W15	7'-6" x 2'-10"	FIXED TRAPZOID
W16	2'-6" x 3'-6"	CASEMENT
W17	2'-6" x 3'-6"	CASEMENT
W18	2'-6" x 4'-0"	CASEMENT
W19	2'-6" x 4'-0"	CASEMENT

NOTE: ALL DOOR GLAZING SHALL BE DUAL GLAZED LOW E TEMPERED BOTH SIDES. ALL WINDOW GLAZING SHALL BE THERMOPANE AND PERMANENT LABELS. SEE T34 SHEETS FOR U-FACTORS AND SHGC.

NOTE: Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements. Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements:

1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section R308 Safety Glazing, or
2. Be constructed of glass block units, or
3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
4. Be tested to meet the performance requirements of SFM Standard 12-7A-2.

AND

1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section 2406 Safety Glazing, or
2. Be constructed of glass block units, or
3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
4. Be tested to meet the performance requirements of SFM 12-7A-2.

NOTE: All Exterior doors shall comply with one of the following requirements:

1. The exterior surface or cladding shall be of noncombustible or ignitor-resistant material, or
2. Slides and stile shall not be less than 1-3/8 inches thick
- 2.2 Raised panels shall not be less than 1-1/4 inches thick, except for the exterior perimeter of the raised panel that may taper to a tongue not less than 3/8 inch thick
3. Shall have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 252.
4. Shall be tested to meet the performance requirements of SFM Standard 12-7A-1.

NOTE:

- Exterior windows and exterior glazed door assemblies shall comply with one of the following requirements:
1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section R308 Safety Glazing, or
 2. Be constructed of glass block units, or
 3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
 4. Be tested to meet the performance requirements of SFM Standard 12-7A-2.
- AND**
1. Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section 2406 Safety Glazing, or
 2. Be constructed of glass block units, or
 3. Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
 4. Be tested to meet the performance requirements of SFM 12-7A-2.

3D CAD SERVICES
 2435 LAGUNA CANYON RD.
 LAGUNA BEACH, CA. 92651
 (949) 338-6905

SCHEDULES

ADDITION AND REMODEL, ADU
 STEVE AND KAREN REINECKE
 1673 A & 1673 B LOUISE ST.
 LAGUNA BEACH CA

DESIGN CONSULTANT:
 WARRIEN W. OLSEN
 DATE: **4/4/24**
 CHECKED: WH
 JOB #: REINECKE
 SHEET #: **A11**

EROSION CONTROL STANDARDS

These notes are to be included on all plans where erosion control is required

Erosion control system

- The kinds of cut and fill slopes and proposed site shall be prepared and maintained as all times to control erosion in accordance with these standards. When cut slopes are not subject to approved by the Building Official, this is not permitted. Erosion control measures must be approved by the Building Official. This is not permitted. Erosion control measures must be approved by the Building Official. This is not permitted. Erosion control measures must be approved by the Building Official. This is not permitted.
- When necessary, temporary erosion control devices or methods, as approved by the Building Official, shall be employed to control erosion and provide safety. Sediment shall be contained on the project site.
- No building or parking work with a slope of any building or parking plan under permit within an erosion control system has been approved and installed or viewed by the Building Official.
- Final slopes, sidewalks, and other improvements shall be maintained in a neat and clean condition. Erosion control measures shall be maintained in a neat and clean condition. Erosion control measures shall be maintained in a neat and clean condition. Erosion control measures shall be maintained in a neat and clean condition. Erosion control measures shall be maintained in a neat and clean condition.
- The soil engineer or other qualified individual who prepared the grading or building plan shall be responsible for inspection and maintenance of the erosion control device, as necessary.
- A permit shall be required for any grading or building plan that requires the use of any erosion control device. A permit shall be required for any grading or building plan that requires the use of any erosion control device. A permit shall be required for any grading or building plan that requires the use of any erosion control device. A permit shall be required for any grading or building plan that requires the use of any erosion control device.
- Equipment and vehicles for emergency work shall be stored at all times. Necessary equipment and vehicles for emergency work shall be stored at all times. Necessary equipment and vehicles for emergency work shall be stored at all times. Necessary equipment and vehicles for emergency work shall be stored at all times.
- Erosion protection shall consist of temporary slope stabilization methods or the erosion planting of vegetation in accordance with the standards approved by the Building Official. Erosion protection shall consist of temporary slope stabilization methods or the erosion planting of vegetation in accordance with the standards approved by the Building Official. Erosion protection shall consist of temporary slope stabilization methods or the erosion planting of vegetation in accordance with the standards approved by the Building Official.
- The erosion control provisions shall take into account drainage patterns during the current and future phases of grading or building.
- Grading shall be completed by the end of each working day, whether the day is a regular working day or not. Grading shall be completed by the end of each working day, whether the day is a regular working day or not. Grading shall be completed by the end of each working day, whether the day is a regular working day or not.
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Erosion control plans

- Grading shall be completed by the end of each working day, whether the day is a regular working day or not. Grading shall be completed by the end of each working day, whether the day is a regular working day or not. Grading shall be completed by the end of each working day, whether the day is a regular working day or not.
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Erosion control maintenance

- Grading shall be completed by the end of each working day, whether the day is a regular working day or not. Grading shall be completed by the end of each working day, whether the day is a regular working day or not. Grading shall be completed by the end of each working day, whether the day is a regular working day or not.
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GRASS STRIP REQUIREMENTS

Grass water includes wastewater from buildings, showers, bathtubs, wet basins, cloth washing machines, and other fixtures. It does not include wastewater from automatic dishwashers, garbage disposals, or other appliances. It is not to be discharged into any storm drain, gutter, or other drainage system or any surface body of water. Additional grass water may be used for irrigation purposes, but not for any other purpose.

GRASS STRIP REQUIREMENTS

The City of Laguna Beach requires a grass strip to be installed adjacent to the building. The grass strip shall be a minimum of 10 feet wide and shall be planted with a minimum of 100 plants per 100 square feet. The grass strip shall be planted with a minimum of 100 plants per 100 square feet. The grass strip shall be planted with a minimum of 100 plants per 100 square feet.

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GRASS STRIP REQUIREMENTS

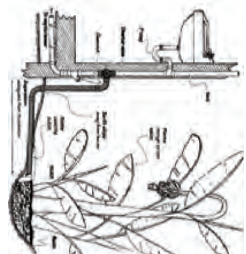
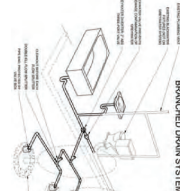
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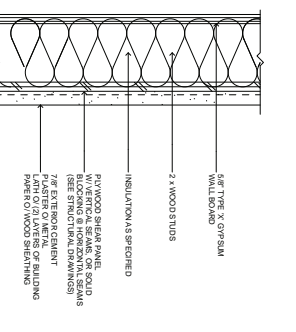
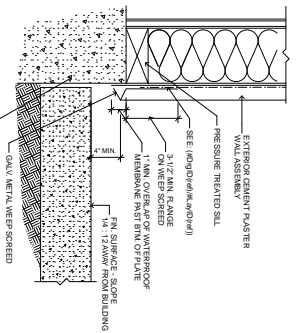
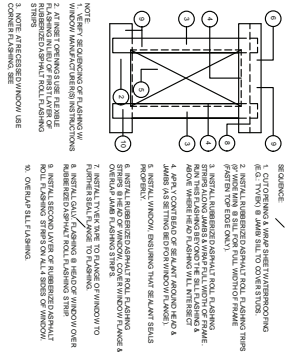
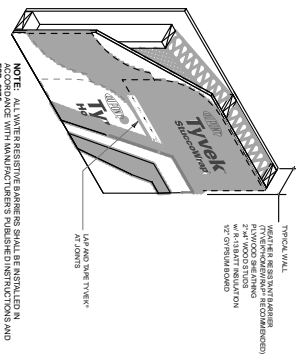
3D CAD SERVICES
2435 LAGUNA CANYON RD.
LAGUNA BEACH, CA. 92651
(949) 338-6905

REVISIONS

City Notes

ADDITION AND REMODEL, ADU
STEVE AND KAREN REINECKE
1673 A & 1673 B LOUISE ST.
LAGUNA BEACH CA

DESIGN CONSULTANT:
NATHAN W. OLSEN
DATE: 4/4/24
CHECKED: WH
JOB #: REINECKE
SHEET #: **GN2**

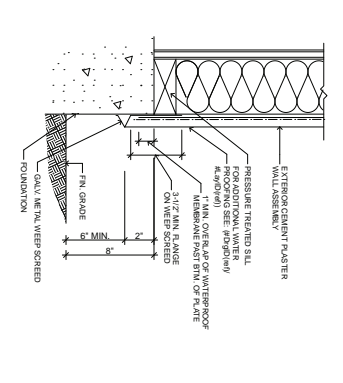
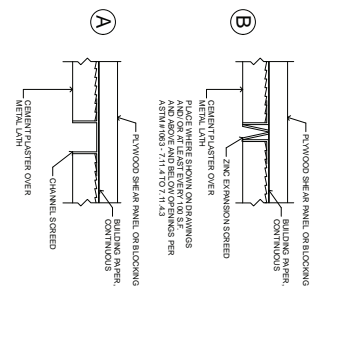
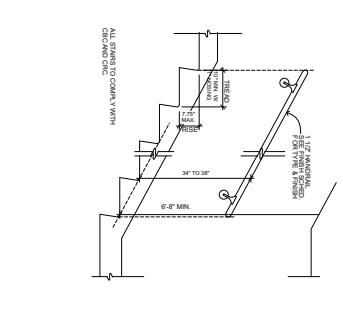
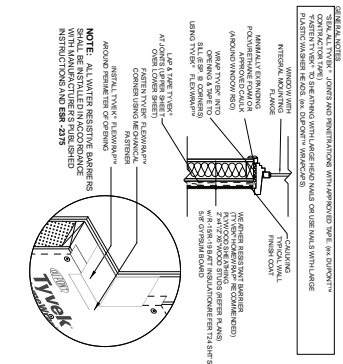


WALL ISOMETRIC

WALL FLASHING @ EXT. OPENING, TYP.

EXT. WALL @ PAVING

EXT. WALL @ GRADE

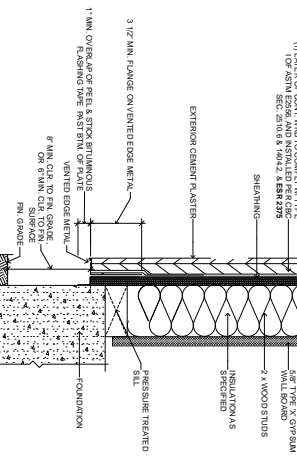
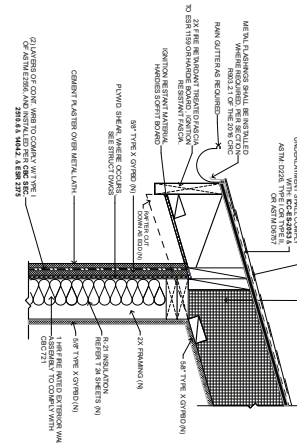
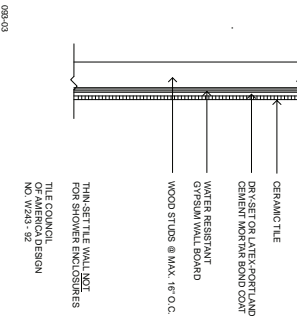
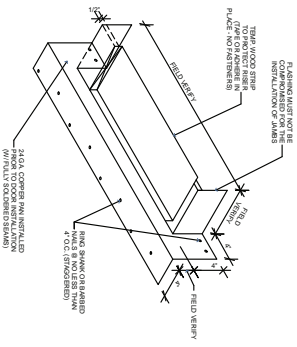


TYPICAL SILL WALL DETAIL

TYPICAL HANDRAIL DETAIL

PLASTER CONTROL JOINT

EXTERIOR WALL @ GRADE



FLASHING @ EXT. SILLS, TYP.

TILE WALL

EXT. WALL AND EAVE ASSEMBLY, TYP.

EXT. WALL W/BD. & BATTEN, TYP.

3D CAD SERVICES
2435 LAGUNA CANYON RD.
LAGUNA BEACH, CA. 92651
(949) 338-6905

Miscellaneous Typical Details

ADDITION AND REMODEL, ADU
STEVE AND KAREN REINECKE
1673 A & 1673 B LOUISE ST.
LAGUNA BEACH CA

DESIGN CONSULTANT
MARKER HANCOCK
DATE: 4/4/24
CHECKED: WH
JOB #: REINECKE
SHEET #: MTD

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Wednesday, April 24, 2024 10:26 AM
To: Dobson, Amber CD
Cc: Jane Abzug
Subject: Re: Laguna Beach Categorical Exclusion

CAUTION - EXTERNAL SENDER.

Thanks for the explanation.

I don't think I will be able to devote too much time to this until this Friday afternoon. But I will try to get back to you on this as soon as I can. It does take a little while to get through all the past agendas though, unfortunately.

take care,

Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: Wednesday, April 24, 2024 10:17 AM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: RE: Laguna Beach Categorical Exclusion

Thank you, Meg!

We have been processing development under the CatEx for single family residential, as it is reflected in the emailed document, and will continue to do so unless we hear differently from you. We are processing ADUs consistent with the Single Family residential criteria as outlined. There is a particularly controversial ADU that we are going to process this week and the residents in the area have objected to the second story ADU, although it does not present any conflicts with coastal resources. You may or may not hear from them. We were hoping to have a response today, but we understand that is not possible. Please let us know if you have any updates next week.

-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Wednesday, April 24, 2024 9:58 AM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: Re: Laguna Beach Categorical Exclusion

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Amber,

The LCP verification was separate from the categorical exclusion order. They are two separate documents and two separate CCC actions.

To confirm the status of the cat ex, I plan to go through the past CCC agendas to see whether any action was ever taken on an LGB cat ex subsequent to the cat ex attached to your email (which is a similar process to the LCP cert verification). That will take some time, and it will depend whether there have been subsequent actions where the file(s) will need to be ordered. But I just need to get this in the queue. I will try to set aside sometime this week to get started on this. It's just a matter of juggling deadlines (as you know too well).

I did speak with Karl, Shannon, and Amrita to see whether they had any recollections about the LGB cat ex. But they didn't. I don't remember any changes to it, but that doesn't mean there weren't.

Do you have a date by which you need this response?

Thanks,
Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: Wednesday, April 24, 2024 9:24 AM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: RE: Laguna Beach Categorical Exclusion

Good Morning Meg,

Do you think that the entirety of the documents were provided during the LCP verification process in 2021-2022? I assume these records are in hard copy and that it will take you some time to find any related documents. I appreciate any guidance you have.

Thank you so much,
-Amber

From: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Sent: Monday, April 22, 2024 2:06 PM
To: Dobson, Amber CD <adobson@lagunabeachcity.net>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: Re: Laguna Beach Categorical Exclusion

[**NOTICE:** This message originated outside of City of Laguna Beach -- **DO NOT CLICK on links or open attachments** unless you are sure the content is safe.]

Hi Amber,
I will look in to this and get back to you.
Thanks,
Meg

From: Dobson, Amber CD <adobson@lagunabeachcity.net>
Sent: Monday, April 22, 2024 2:01 PM
To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>
Cc: Jane Abzug <Jane.Abzug@bbklaw.com>
Subject: Laguna Beach Categorical Exclusion

Hi Meg,

We are applying the 1994 Exclusion order for new single family homes, consistent with the documents attached here. Can you confirm whether any more recent orders / letters have been issued regarding this particular exclusionary order, or if the order was amended at any point?

Thank you,

AMBER DOBSON

CITY OF LAGUNA BEACH

Planning Manager

Community Development Dept.

505 Forest Avenue

Laguna Beach, CA 92651

p. 949.497.0362 | e. adobson@lagunabeachcity.net

Exhibit I

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071



October 17, 2024

David J. Deerson
Pacific Legal Foundation
555 Capitol Mall, Ste. 1290
Sacramento, CA 95814

Re: CDP Exemption for Attached ADU Project at 1637 Louise Street (APN 053-103-10)

Mr. Deerson,

This letter is in response to your clients', Steve and Karen Reinecke, request under section 13245 of the Title 14 of the California Code of Regulations that the Executive Director provide an interpretation of Categorical Exclusion Order E-93-1. The Reineckes have also requested a review of the City's determination, pursuant to City of Laguna Beach Municipal Code § 25.07.012(B)(3), of whether or not the proposed project was exempt from coastal development permit requirements. It appears from your letter that the Reineckes proposed to construct an Accessory Dwelling Unit (ADU) attached to their single family residence and that the City of Laguna Beach Planning Department approved the project without a coastal development permit on May 7, 2024. Your letter indicates that the coastal development permit exemption request was subsequently rejected by the Coastal Commission and the Reineckes were advised to seek a coastal development permit.

Your letter contains an attachment that shows that the City submitted a Notice of Action pursuant to Categorical Exclusion Order E-93-1. However, your letter asserts the proposed project is exempt from the coastal development permit requirements on the grounds that the development was categorically excluded under the Categorical Exclusion Order E-93-1 and/or exempt under section 30610 of Title 14 of the Public Resources Code. Accordingly, we will address both asserted grounds.

We have carefully reviewed your letter, the supporting documentation, and the relevant statutes, regulations, ordinances, and the Categorical Exclusion Order E-93-1. Our determinations are contained below.

Interpretation of Categorical Exclusion Order E-93-1

Categorical Exclusion Order E-93-1, in relevant part, creates a "category of excluded development" for "single family residential development" within eleven areas zoned for single family residential development. (See Exhibit A, pg. 1.) Coastal Commission staff determined that the Reineckes' home and the proposed project falls within one of those geographic areas subject to the categorical exclusion. On further review of Categorical Exclusion Order, the phrase "single family residential development" is not defined. We do not, however, interpret the "single family residential development" language of the

Categorical Exclusion Order E-93-1 to be the equivalent of the “single-family residence” exemption contained in Public Resources Code, tit. 14 § 30610(a) and the California Code of Regulations., tit. 14 § 13250. The language of § 13250 gives effect to § 30610(a) by specifying what type of development qualifies for the exemptions, and it is inappropriate to extrapolate the meaning of the regulation to the Categorical Exclusion Order, when the Categorical Exclusion Order itself contains requirements on how it should be interpreted.

Specifically, Categorical Exclusion Order E-93-1 is conditioned with several special conditions. Special Condition No. 9 is most relevant to the Reineckes’ inquiry and is stated as follows:

9. Amendment of LCP.

In the event an amendment of the LCP is certified by the Coastal Commission pursuant to Section 30514 of the Coastal Act, development under this order shall comply with the amended LCP except where the terms and conditions of this order specify more restrictive criteria. However, such amendment shall not authorize the exclusion of any category of development not excluded herein, nor shall such amendment alter the geographic areas of the exclusion.

It is clear that Categorical Exclusion Order E-93-1 was written in such a way to anticipate the further development of and amendment to the City’s Local Coastal Program. It is also clear that the intent of Categorical Exclusion Order E-93-1 is to work in tandem with the Local Coastal Program to provide full protection of coastal resources by implementing the most protective and restrictive policy.

The City of Laguna Beach has promulgated several exemptions in its local coastal program whereby certain types of development would not require a coastal development permit. This includes an exemption for “Improvements to Single Family Dwellings”, stated, in relevant part, below:

- (1) Improvements to Single-Family Dwellings. Improvements to single-family dwellings and mobile homes, including structures located on the same lot as the single-family dwelling are normally associated with a single-family dwelling such as garages, swimming pools, fences, storage sheds and landscaping, are exempt unless classified as one of the following:
 - a. Guest houses and self-contained accessory dwelling units (excluding conversions of habitable area within the walls of the primary dwelling unit; where habitable area means an area that meets the requirements of the California Building Code (CBC) for sleeping, living, cooking, or dining purposes, excluding enclosed places (e.g., closets, bath or toilet rooms, hallways, laundries, pantries, storage spaces, utility rooms, etc.);

...

City of Laguna Beach Municipal Code § 25.07.008.

The “Improvements to Single Family Dwellings” exemption is a type of development which is within the scope of the Categorical Exclusion Order E-93-1. Further, the LCP is more

restrictive, and not less restrictive, than Categorical Exclusion Order E-93-1, as to what types of development relating to single family residences are exempt. Therefore, the LCP exemptions apply and should be analyzed in determining whether the proposed project is exempt or not as required by Special Condition No. 9 of the Categorical Exclusion Order E-93-1.

If the respective staffs are not able to reach agreement on the appropriate permitting process for the proposed development or request in a reasonable time, the Executive Director will present this interpretation of the Categorical Exclusion Order E-93-1 to the Commission as soon as practicable pursuant to the Commission's regulations. This interpretation shall be conclusive unless three (3) or more Commissioners request to review the interpretation, and then the interpretation shall be adopted if the interpretation receives the majority vote of the appointed membership.

Review of Exemption Determination pursuant to Laguna Beach Municipal Code § 25.07.012(B)(3).

The Reineckes have also requested that we review the City's determination pursuant to Laguna Beach Municipal Code § 25.07.012(B)(3). We have concluded that the City improperly determined that the Reineckes' proposed project was exempt under the Categorical Exclusion Order E-93-1 for the reasons outlined below.

The Reineckes are proposing to construct an attached ADU to their single-family home. The local coastal program excludes from the "Improvements to Single Family Dwellings" exemption all "self-contained accessory dwelling units" except those that are converted from the habitable area within the walls of the primary dwelling unit. The proposed project, as indicated in the letter and plans, is to construct an ADU as an addition to the existing home. Therefore, it appears that the proposed project is not exempt under the more restrictive requirements of the local coastal program and, therefore, also not exempt under the Categorical Exclusion Order E-93-1.

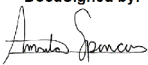
Your letter also asserts that the Coastal Act provides an independent basis for exemption. We disagree. The recent case of *Citizens for South Bay Coastal Access v. City of San Diego*, (2020) 45 Cal.App.5th 295, holds that where a local coastal program includes specific exemptions, those exemptions apply, rather than those found in § 30610. In this case, the local coastal program provides for specific exemptions relating to single family residences and ADU improvements. Accordingly, those specific exemptions apply in this case. As proposed, it appears that the project as proposed does not meet the "Improvements to Single Family Dwellings" exemption under the LCP.

Additionally, your letter states that other, similar projects were implemented pursuant to Categorical Exclusion Order E-93-1. We have not found any record of notice required under Cal. Code Regs. tit. 14, § 13248 for any of the properties you provided. If you have documentation of such notices and the plans which you cite to in the letter, we encourage you to forward those on to our staff for further review.

While we stand by the Executive Director's decision that the Reineckes' proposed ADU is not exempt from the permitting requirements of the LCP, Commission staff, in principal, agrees that the construction of ADUs that are used to provide additional residential units is

desirable. The Commission has been supportive of many such recent projects. We encourage your clients engage with the City further, as this project may qualify for a coastal development permit waiver or some other type of expedited permitting process.

Sincerely,

DocuSigned by:

D781AF30CE0C4F5...

Amrita Spencer
District Manager, South Coast District

cc: David Contreras, Director of Community Development, City of Laguna Beach

Exhibit A

A. CATEGORY OF EXCLUDED DEVELOPMENT

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30610(e) and 30610.5(b) which excludes the following categories of development in the designated areas of the coastal zone of the City of Laguna Beach from the permit requirements of the California Coastal Act of 1976. However, no development located on tidelands or submerged lands, beaches, lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach and all land and water subject or potentially subject to the public trust is excluded by this order. In addition, no development in areas of deferred certification or development appealable under Public Resources Code Section 30603 is excluded by this order. The Commission hereby orders that the following developments within the excludable area shall not require a coastal development permit:

1. Single Family Residential Development

Single family residential development in eleven areas zoned for single family residential development as shown on Exhibit E unless within the LCP mapped areas of high slope or geologic risk as shown on the Slope map and Geologic Conditions map. The areas to be excluded are known as: (1) Hillcrest and (2) High, located north of Laguna Canyon Road and inland of Pacific Coast Highway; (3) Skyline, (4) High School, (5) Temple Hills, (6) Summit, (7) Alta Vista, (8) Portafina, (9) Arch Beach Heights and (10) Top of the World, all located south of Laguna Canyon Road and inland of Pacific Coast Highway; and (11) South Laguna Village Community, located in the South Laguna area inland of Pacific Coast Highway.

2. Signs

Signs which comply with the City's sign regulations as incorporated into the Local Coastal Program or as subsequently modified through LCP amendments.

3. Commercial Changes

Commercial interior and exterior changes which do not result in an intensification of commercial usage.

4. Public Improvements Up to \$50,000

Public improvement projects of up to \$50,000 provided they do not limit parking or impair beach access or do not serve, affect, or otherwise impact regional or statewide recreational use of the coast.

5. Replacement-in-Kind/Maintenance of Public Improvements

Public improvement projects which are limited to replacement-in-kind or maintenance and which are not located in environmentally sensitive areas as shown on the LCP Biological Resource Values map or open space areas, the Downtown Specific Plan, oceanfront properties or public buildings or parks or do not serve, affect, or otherwise impact regional or statewide recreational use of the coast.

6. Grading Projects

Grading projects which do not require a grading permit (as provided in the exceptions provision of Section 22.10.010 (E) of the Municipal Code), except those projects described in Section 22.10.010(E)(5) or within areas shown on the LCP Biological Resource Values map.

B. SPECIAL CONDITIONS

Exclusion Limitations

These exclusions will not apply to any areas of deferred certification or to developments upon any lands and waters subject to or potentially subject to the public trust, such as tide or submerged lands, beaches, lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach. Also, these exclusions will not apply to any areas appealable to the Coastal Commission under Public Resources Code Section 30603.

1. Areas of Geologic Risk

The Categorical Exclusion Order shall not apply to areas that are mapped as high and very high slope areas and areas of geologic risk in the City's certified Land Use Plan.

2. Revised Grading Description

The categorical exclusion order shall not apply to Section 22.10.010 (E)(5) of the Laguna Beach Municipal Code.

3. Public Improvement Projects

The categorical exclusion order shall apply only to public improvement projects that do not exceed \$50,000, do not limit parking or impair beach access and that do not serve, affect or otherwise impact regional or statewide recreational use of the coast.

4. Mapping

This order of categorical exclusion shall not be implemented until the City submits to the Executive Director of the Coastal Commission and the Executive Director approves, in writing, a map depicting all of the following:

- a. The geographic areas excluded by the Commission Order;
- b. The zoning designations of the excluded order;
- c. The areas of potential public trust (areas subject to the public trust are seaward of the line of mean high tide);
- d. All coastal bodies of water, riparian corridors, and wetlands as may be shown on any Land Use Plan Resources Maps, or background studies;

e. The boundaries of all lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach;

f. A map note which clearly indicates that the written terms of this order should be consulted for a complete listing of non-excludable developments. The note shall, to the maximum extent practicable, indicate the topical areas which are non-excludable. It shall state that no development within one hundred feet from the upland limit of any stream, wetland, marsh, estuary, or lake, or within 300 feet of the top of the seaward face of any bluff is excluded by the terms of this order, regardless of whether such coastal waters are depicted on the exclusion map, or not. The map note shall further state that where geologic risk, high slope, environmentally sensitive habitat, open space or other similar policies of the certified local coastal program specify geographic areas of concern for natural resources, then no development shall occur in the area described in the local coastal program unless authorized by a coastal development permit.

5. Determination by the Executive Director

The order granting a categorical exclusion for these categories of development in the City of Laguna Beach shall not become effective until the Executive Director of the Commission has certified, in writing, that the local government has taken the necessary action to carry out the exclusion order pursuant to Section 13244 of the Coastal Commission regulations.

5. Exclusion Limited to Coastal Permits

This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code 30610(e) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state or local government agency.

6. Records

The City of Laguna Beach shall maintain a record of any other permits which may be required for categorically exempt development which shall be made available to the Commission or any other interested person upon request.

7. Notice

Within five working days of local approval of a development covered by this exclusion, the Coastal Commission area office and any person who has requested such notice shall receive notification of development exempted under this order on a form containing the following information:

- a. name of the developer;
- b. street address and parcel number of the subject property;
- c. description of the development;
- d. date of application for other permits; and
- e. all terms and conditions of approval imposed by the local government in granting other permits.

8. Conformity with the LCP

Development under this exclusion shall conform with the City of Laguna Beach's LCP in effect on the date of this exclusion as adopted by the Commission or to the terms and conditions of this exclusion where such terms and conditions specify more restrictive development criteria.

9. Amendment of LCP

In the event an amendment of the LCP is certified by the Coastal Commission pursuant to Section 30514 of the Coastal Act, development under this order shall comply with the amended LCP except where the terms and conditions of this order specify more restrictive criteria. However, such amendment shall not authorize the exclusion of any category of development not excluded herein, nor shall such amendment alter the geographic areas of the exclusion.

10. Limitation

Any development not falling within this exclusion remains subject to the coastal development permit requirements of the Coastal Act of 1976.

C. RECISION AND REVOCATION

Pursuant to Title 14 of the California Code of Regulations Section 13243(e), the Commission hereby declares that the order granting this exclusion may be rescinded at any time, in whole or in part, if the Commission finds by a majority vote of its appointed membership, after public hearing, that the terms and conditions of the exclusion order no longer support the findings specified in Public Resources Section 30610(e). Further, the Commission declares that this order may be revoked at any time that the terms and conditions are violated.

Exhibit J

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 East Ocean Blvd., Suite 300
Long Beach, CA 90802
(562) 590-5071

F9a

October 31, 2024

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Amrita Spencer, District Manager
Mandy Revell, Planning Supervisor
Meg Vaughn, Staff Analyst

RE: Request for Commission Review of the Executive Director's Interpretation of
Categorical Exclusion Order E-93-1

The Coastal Commission's South Coast District office received a Notice of Action (local Case No. ZPC 2023-1392), dated April 24, 2024, indicating that the City had determined that a project involving the addition of an 810 square foot Accessory Dwelling Unit (ADU) to an existing single family residence at 1673 Louise Street was categorically exempt from Coastal Development Permit requirements pursuant to Categorical Exclusion Order No. E-93-1 (the "Order"). The Order is attached hereto as [Exhibit A](#). On May 2, 2024, Coastal Commission staff notified the City that the subject project did not qualify for a categorical exclusion. The project applicants, Steve and Karen Reinecke, dispute the Executive Director's interpretation and application of the Order. The project applicants have requested, pursuant to Section 13245 of Title 14 of the California Code of Regulations, that the Executive Director interpret the Order and this interpretation be put before the Coastal Commission for review.

The Executive Director finds that the Order requires that the most restrictive development criteria must apply to development covered by the scope of the Order. For the addition of ADUs to single family residences, like the development proposed by project applicants, the current local coastal program provides more restrictive development criteria than the Order, and therefore that development criteria must apply, including its exemptions and exclusions. The basis for the Executive Director's interpretation is provided in further detail below.

Categorical Exclusion Order E-93-1, in relevant part, creates a "category of excluded development" for "single family residential development" within eleven areas zoned for single family residential development. The phrase "single family residential development" is not expressly defined within the Order. However, review of the text of the Order is instructive. Specifically, the Order contains several special conditions and Special Conditions No. 8 and No. 9 are most relevant to the Reineckes' inquiry. Special Conditions No. 8 and 9 are stated as follows:

8. Conformity with the LCP

Request for Commission Review of Executive Director's Interpretation of
City of Laguna Beach
Categorical Exclusion Order E-93-1

Development under this exclusion shall conform with the City of Laguna Beach's LCP in effect on the date of this exclusion as adopted by the Commission or to the terms and conditions of this exclusion where such terms and conditions specify more restrictive development criteria.

9. Amendment of LCP

In the event an amendment of the LCP is certified by the Coastal Commission pursuant to Section 30514 of the Coastal Act, development under this order shall comply with the amended LCP except where the terms and conditions of this order specify more restrictive criteria. However, such amendment shall not authorize the exclusion of any category of development not excluded herein, nor shall such amendment alter the geographic areas of the exclusion.

Special Condition Nos. 8 and 9 require any development within the scope of the Order comply with the development criteria of either the City of Laguna Beach's LCP or the development criteria of the Order depending on which is the more restrictive. It is clear that the Order is intended to work in tandem with the Local Coastal Program to provide full protection of coastal resources by implementing the most protective and restrictive policy. Specifically, the categorical exclusions in the Order do not apply where there is a more restrictive exemption or exclusion contained in the LCP that applies to the development.

The City of Laguna Beach has promulgated several exemptions in its LCP whereby certain types of development would not require a coastal development permit. This includes an exemption for "Improvements to Single Family Dwellings". (See City of Laguna Beach Municipal Code tit. 25 § 25.07.008). This exemption is stated, in relevant part, below:

- (1) Improvements to Single-Family Dwellings. Improvements to single-family dwellings and mobile homes, including structures located on the same lot as the single-family dwelling are normally associated with a single-family dwelling such as garages, swimming pools, fences, storage sheds and landscaping, are exempt unless classified as one of the following:
 - a. Guest houses and self-contained accessory dwelling units (excluding conversions of habitable area within the walls of the primary dwelling unit; where habitable area means an area that meets the requirements of the California Building Code (CBC) for sleeping, living, cooking, or dining purposes, excluding enclosed places (e.g., closets, bath or toilet rooms, hallways, laundries, pantries, storage spaces, utility rooms, etc.);

...

City of Laguna Beach Municipal Code § 25.07.008.

The "Improvements to Single Family Dwellings" exemption is a type of development which is within the scope of the Order as both the LCP and the Order cover development relating to single-family residences. Further, the LCP places certain limitations on the exemptions for single family residential development and is therefore more restrictive than the Order as to what types of development relating to single family residences are excluded or exempt from the coastal

Request for Commission Review of Executive Director's Interpretation of
City of Laguna Beach
Categorical Exclusion Order E-93-1

development permit requirements. As the Order requires that the more restrictive development criteria apply to the development, the LCP exemptions and exclusions apply to the addition of ADUs to single family residences.

The project applicants have offered a different interpretation of the Order. The project applicants have asserted that the "single family residential development" language of the Categorical Exclusion Order E-93-1 to be the equivalent of the "single-family residence" exemption contained in Section 30610(a) of Title 14 of the Public Resources Code and section 13250 of Title 14 of the California Code of Regulations. We disagree. The language of section 13250 gives effect to section 30610(a) by specifying what type of development qualifies for the exemptions under that section, and it is inappropriate to extrapolate the meaning of the words used in that regulation to the Order when the Order itself contains requirements on how it should be interpreted.

The City of Laguna Beach, in a letter to the project applicants' attorney dated August 8, 2024, acknowledged the misapplication of the categorical exclusion contained in the Order and deferred to the Coastal Commission staff's interpretation and application of the Order. The City noted that the project applicants' project is not exempt under the City's LCP, but the Reinecke's application would be processed under the "public hearing waiver for minor development" procedure in its LCP. The City proposed initiating that process in late June 2024, but the applicant requested that the City not move forward with that process. The City's Letter is attached as [Exhibit B](#).

Pursuant to Section 13245 of Title 12 of the California Code of Regulations, any person may request an interpretation of a categorical exclusion order in the same manner as provided in section 13231. Section 13231 provides that the Executive Director shall make such interpretation as soon as time and resources allow and such interpretation shall be reviewed by the Commission at its next regularly scheduled meeting. The Executive Director's interpretation shall be conclusive unless three (3) or more Commissioners request to review the interpretation, in which case the Commission shall make the interpretation by majority vote of the appointed membership.

STAFF RECOMMENDATION

Staff recommends that the Commission concur with the Executive Director's interpretation of the Categorical Exclusion Order E-93-1 as it relates to the addition of ADUs to single family residences.

Exhibit K



November 8, 2024

Dr. Caryl Hart, Chair
and Commissioners
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

Via Email: SouthCoast@coastal.ca.gov

Re: Agenda Item Friday 9a— Deputy Director's Report for Orange County/Request for the Executive Director's Determination

Dr. Hart and Commissioners:

California faces a severe housing crisis, with significant consequences for the State's economy, its environmental goals with respect to greenhouse gas emissions, and the welfare of its citizens.¹ To address these concerns, the Legislature has established a mandatory framework for owners of existing single-family homes to obtain by-right permits to construct accessory dwelling units (ADUs).² By pursuing their proposed project, the Reineckes are taking part in a statewide effort to combat California's housing shortage and to help provide an "essential component" of the state's housing supply.³

At the same time, the ADU framework is not intended to lessen the effect of the Coastal Act.⁴ Yet the vital need to build housing need not be in tension with the State's policy of protecting coastal resources. After all, nothing in the Coastal Act exempts local governments from complying with housing obligations.⁵ Meanwhile, the legislature recently passed SB 1077, calling on this Commission to more closely coordinate with the Department of Housing and Community Development in aligning their respective goals to "simplify the permitting process" for ADUs in the Coastal Zone.⁶

Thus, ADU law and the Coastal Act each contain mutual assurances that the one will not interfere with the other. Fortunately, there are many areas in which Commission and

¹ Gov't Code § 66310.

² See Gov't Code §§ 66310 – 66403.

³ Gov't Code § 66310(h).

⁴ Gov't Code § 66329.

⁵ Pub. Res. Code § 30007.

⁶ SB 1077 (2023 – 2024) (codified at Pub. Res. Code § 30500.5).

local governments already have the authority (and indeed, the responsibility), to fast-track ADU projects that are known to have no negative impact on Coastal resources. The Reineckes' project is a good example.

The City has determined that the Reineckes' proposed project is consistent with the LCP and will have no adverse impact on coastal resources. Moreover, the Reineckes' home is within an area covered by Exclusion Order No. E-93-1 (the Order), which exempts single-family residential development from the need to obtain a Coastal Development Permit (CDP). Although the term "single family residential development" is not defined in the Order, definitions of that term by this Commission in related contexts indicate that it includes the development of attached ADUs. Confirming this interpretation, several other similar developments involving ADUs in the exclusionary zone have recently been exempted under the Order.

Staff's contrary interpretation of the Order, particularly its reliance on Sections 8 and 9, is not persuasive. These sections generally provide that "development under [the] Order shall comply" or "conform" with the City's LCP. But the LCP itself incorporates the Order, meaning that any development covered by the Order is necessarily also exempt under the LCP. More importantly, because the Order is incorporated in the LCP, the Commission may not override the City with respect to the Order's application. Finally, neither the Commission nor the City may require a CDP for this project in the first place. The Coastal Act specifically withholds authority to require a CDP for improvements to single-family residences like the Reineckes' project.

I. The Reineckes' Project is consistent with the LCP and will have no adverse impact on coastal resources

To begin, it is worth noting the City's determination that the Reineckes' proposed project is consistent with the LCP and will have no adverse effect on coastal resources. This can be seen from the City's offer to process their project as "minor development" under LBMC Section 25.07.013.⁷ That determination requires a finding that the project (1) is consistent with the local coastal program, and (2) has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast. While the Reineckes appreciate this acknowledgement, minor development under the LBMC must still proceed to obtain a CDP, and the waiver of a hearing can be overridden by a single protest from a single neighbor. Thus, the procedural requirements for most "minor development" are still far more onerous than what the law requires, which is that this project be excluded from the CDP requirement as outlined further below. Moreover, the Reineckes are sincere in their support of statewide policy promoting the

⁷ A copy of LBMC Chapter 25.07 is attached as **Exhibit A**.

development of ADUs and seek to ensure that ADU development is not unduly burdened by incorrect interpretations of the City's LCP.

II. The project is exempt under Exclusion Order No. E-93-1

The Order exempts “single family residential development” on the Reineckes’ property. That term is undefined in the Order. But further light is shed on that term in Coastal Commission regulations issued pursuant to Pub. Res. Code § 30610, the same statutory section which authorizes the Order. There, in Code Regs. tit. 14, § 13250, the regulations provide that, for purposes of Pub. Res. Code § 30610(a), “[a]ll fixtures and structures directly attached to a residence” are to be considered as “a part of” an “existing single-family residential building.” As the Court of Appeal recently confirmed, “[u]nder the Coastal Commission definition, directly attached structures, including ADUs, are exempted from the types of developments that require CDPs under the Coastal Act.”⁸

Although this particular language is interpreting § 30610(a), while the Order is authorized by § 30610(e), regulations concerning the same subject matter “should be construed together.”⁹ Both subdivisions (a) and (e) of section 30610 set out instances in which “no coastal development permit shall be required” under Chapter 7 of the Coastal Act, and “[n]otwithstanding any other provision” of the Coastal Act. Just like § 30610(a), the Order excludes certain “categories of development . . . from the permit requirements of the California Coastal Act of 1976.” In other words, subdivision (a), subdivision (e), and the Order all relate to the same purpose—excluding certain classes of development from coastal permit requirements. And subdivision (a) and the Order both refer to the same class of single-family residential development. Moreover, both the Order and Cal. Code Regs. tit. 14, § 13250 were issued by the same agency—this commission. The best construction of the Order, therefore, is one which is consistent with this Commission’s regulations. Where single-family residences are concerned, attached ADUs should be considered part of the same structure. The creation of attached ADUs, in other words, is single-family residential development.

III. The Order has been interpreted to exempt similar ADU projects several times in the recent past

The Reineckes have identified several similar projects that were exempted from the CDP requirement under the Order. The projects are outlined below:

- **950 Baja Street (Exh. B):** This project involved the construction of a new single-family residence including an attached ADU of 430 square feet.

⁸ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 972.

⁹ *See Hoitt v. Dep’t of Rehabilitation* (2012) 207 Cal. App. 4th 513, 523 (citation omitted).

- **1101 Miramar Street (Exh. C):** This project involved an upper-level addition to an existing single-family residence as well as a conversion of the existing garage to an ADU.
- **675 Oak Street (Exh. D):** This project involved an upper-level addition of 262 square feet in place of an existing elevated deck.
- **900 Hillcrest Drive (Exh. E):** This project involved the construction of a new single-family residence including an attached ADU of 799 square feet.
- **483 Jasmine Street (Exh. F):** This project involved the construction of a new two-story ADU attached to an existing detached garage, as well as a conversion of the garage into ADU living space.
- **478 Locust Street (Exh. G):** This project involved construction of a new single-family residence with an attached ADU.
- **477 Pearl Street (Exh. H):** This project involved the addition of a 778 square-foot ADU to an existing single-family residence.
- **1482 Carmelita Street (Exh. I):** This project involved the creation of an attached ADU by converting 234 square feet of an existing garage and constructing 354 additional square feet.

The Reineckes referenced some of these projects in their letter seeking review from the Executive Director, and were surprised to be told that Commission staff “have not found any record of notice required” for “any of the properties you provided.”¹⁰ Nevertheless, the Reineckes presume that regular procedures were followed by both the City and the Commission regarding each of these projects, including notice to the Commission.¹¹ There is no basis for treating the Reineckes’ project differently.

IV. Staff’s textual arguments are unpersuasive

According to the City’s LCP, a CDP “shall be required for all proposed development within the coastal zone except for development specifically exempted under Sections 25.07.008 and 25.07.010.”¹² The referenced sections provide two ways that development might be exempt: First, Section 25.07.008 lays out seven categories of exempted development, such as improvements to single-family dwellings, improvements to other structures, and repair and maintenance activities. Second, Section 25.07.010 provides that any

¹⁰ Letter from Amrita Spencer (Exh. J).

¹¹ See LBMC § 25.07.010; Cal. Code Regs. tit. 14, § 13248. See also Evid. Code § 664 (“It is presumed that official duty has been regularly performed.”).

¹² LBMC § 25.07.004.

development “included in any categorical exclusion area,” such as those covered by the Order, “is exempt from the regulations contained in this chapter,” i.e., Chapter 25.07 of the City’s zoning code, which constitutes part of the City’s certified LCP. In other words, under the terms of the LCP, all development covered by the Order is automatically excluded from coastal permitting requirements.

Neither the staff report nor the letter from South Coast District Manager Amrita Spencer argue that attached ADUs are not covered by the Order. Instead, both the report and the letter argue that language in the City’s LCP overrides the Order with respect to attached ADUs. That is incorrect.

Both the report and the letter point to Sections 8 and 9 of the Order, which together provide that development under the Order shall comply with the LCP, except to the extent that the Order is more restrictive. They further point to the LCP at LBMC Section 25.07.008, which separately provides that certain types of development do not require a CDP. This provision includes improvements to single-family residences, but not “guest houses and self-contained accessory dwelling units.”¹³ All this means, however, is that the guest houses and self-contained accessory dwelling units are not exempt under LBMC Section 25.07.008. It is irrelevant to whether such development is otherwise excluded under LBMC Section 25.07.010, which exempts all development covered by the Order.

Staff’s argument proves far too much. After all, Section 25.07.008 only exempts “improvements” to single-family dwellings, not the dwellings themselves. Meanwhile, the Order excludes all “single family residential development” in the exclusion area. LCP Section 25.07.008 is therefore “more restrictive” than the Order with respect to single-family dwellings in the exclusion area. Under staff’s logic, the construction of a single-family dwelling would therefore not fall under the Order by operation of Sections 8 and 9. To take another example, the Order contains an exclusion for public improvement projects up to \$50,000. But there is no such exemption in LBMC Section 25.07.008. Under staff’s reasoning, the absence of the public improvements exemption from Section 25.07.008 would take it out of the Order as well, since developing a public improvement under the Order would then be inconsistent with the LCP. There is no need to multiply examples further. Suffice to say that staff’s argument would eliminate the effect of the Order altogether and replace it with Section 25.07.008. That cannot be right. After all, it would render LBMC Section 25.07.010, which incorporates the Order, completely meaningless.

¹³ LMBC § 25.07.008(A)(1)(a).

On the contrary, all that Sections 8 and 9 of the Order mean are that excluded development under the Order must otherwise comply with the LCP.¹⁴ Thus, for example, a single-family residence developed under the Order still cannot remove, destroy, or substantially alter any heritage tree as outlined in LBMC Section 12.08, which is part of the City's LCP.¹⁵

Further evidence that this interpretation is correct can be found in LBMC Section 25.17.030(B)(1).¹⁶ This portion of the City's zoning code relates to ADUs, and provides that "ADUs that are not exempted or excluded under Chapter 25.07 (Coastal Development Permits) require issuance of a coastal development permit[.]" The dual reference to "exempted" and "excluded" clearly refer respectively to LBMC Section 25.07.008 (titled "Exemptions") and LBMC Section 25.07.010 (titled "Categorical exclusions"). Thus, the City's own code clearly contemplates that some ADUs are covered by the categorical exclusions in the Order.

To the extent that staff seeks to argue that the Order itself does not exclude any ADU development, they are in an awkward position. If that were true, then the LCP—which clearly exempts conversions of existing habitable space within the existing primary residence¹⁷—would not be *more* restrictive but *less* restrictive than the Order. But this, of course, would contradict its primary argument, which hinges on an interpretation of the LCP as being more restrictive than the Order.

V. The Coastal Act itself prohibits requiring a CDP for attached ADUs

Chapter 7 of the Coastal Act lays out the development review authority by which CDPs may be required by the Commission or by a local government. It also provides that, notwithstanding any other provision of the Coastal Act, no CDP shall be required pursuant to Chapter 7 for "improvements to single-family residences[.]"¹⁸ That same provision directs the Commission to specify classes of development which nevertheless

¹⁴ These sections also mean that the City's LCP cannot be read to allow exempted development under looser criteria than does the Order. Thus, for example, an LCP provision which purported to exempt all public improvement projects of more than \$50,000 would be ineffective, because the Order only excludes such improvements that do not exceed \$50,000. If the LCP sought to do so, Sections 8 and 9 direct that the Order should be followed instead.

¹⁵ See City of Laguna Beach, Local Coastal Program, <https://www.lagunabeachcity.net/government/departments/community-development/planning-zoning/land-use-plans/local-coastal-program> (last accessed Nov. 7, 2024). LBMC Chapter 12.08 is attached as **Exhibit K**.

¹⁶ A copy of LBMC Chapter 25.17 is attached as **Exhibit L**.

¹⁷ LBMC § 25.07.008(A)(1)(a).

¹⁸ Cal. Pub. Res. Code § 30610(a).

require a CDP due to their risk of adverse environmental effect. As described above in Section II, the Commission has done so. Its regulations provide that single-family development includes “[a]ll fixtures and structures directly attached to a residence.”¹⁹ As the California Court of Appeal recently confirmed, attached ADUs are exempt from the requirement to obtain a CDP under the Coastal Act.²⁰

When an LCP is certified, the development review authority of Chapter 7 is delegated to the local government that implements the LCP.²¹ But as described above, that development review authority *does not include* the authority to require a CDP for improvements to single-family residences like the Reineckes’ project. On the contrary, Chapter 7 specifically *prohibits* such a requirement. Thus, however LBMC Section 25.07.008 is read, the LCP cannot require a CDP for the Reineckes’ project because the authority to do so was explicitly withheld by the Coastal Act itself.

VI. This Commission is without jurisdiction to override the City’s application of the Order

As just described, the authority to require CDPs is not exercised by the Commission but by the City because its LCP is certified. The LCP at LBMC Section 25.07.010 provides that development “included in any categorical exclusion area adopted pursuant to the California Coastal Act is exempt from the regulations contained in this chapter except for the notice requirements contained within California Code of Regulations Section 13248.” In other words, when the City interprets and applies the Order, it is implementing its own LCP. That is a role that it alone can exercise, not the Commission. All the more so here because the Reineckes’ project is not appealable to the Commission. The only role for the Commission is to receive notice of the issuance of a development permit for projects excluded under the Order.

In this case, the City initially determined that the project was indeed covered by the Order.²² That was consistent with public guidance posted on the City’s website explaining that ADU projects “located within a mapped categorical exclusion area are exempt” from the CDP requirement.²³ As a matter of course, they notified the Commission of this determination.²⁴ But the Commission exceeded its role by insisting that the City could not process the Reineckes’ application as exempt under the Order. As a result, the City

¹⁹ Cal. Code Regs. tit. 14, § 13250(a)(1).

²⁰ *Riddick v. City of Malibu* (2024) 99 Cal. App. 5th 956, 972.

²¹ Cal. Pub. Res. Code § 30519.

²² See Email from Amber Dobson (Exh. M).

²³ This material is attached as Exhibits N and O.

²⁴ See Emails between Amber Dobson and Meg Vaughan (Exh. P).

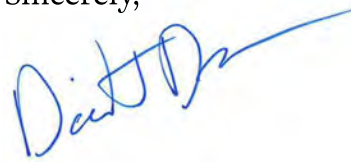
erroneously felt it had to defer to the Commission's "rejection" of the project.²⁵ That is an inversion of the correct administration of the Coastal Act. It is the City's initial, correct interpretation which controls.

VII. Conclusion

This Commission has a crucial role in helping to effectuate the vital statewide policy of promoting ADU development while at the same time ensuring that coastal resources are protected. Fortunately, this project provides an easy way to do both. The Commission has already determined through the Order that development like the project at issue categorically qualifies for development without a CDP because it has no potential to adversely affect coastal resources. The City has confirmed that categorical conclusion with respect to this project specifically by determining that it qualifies as "minor development," which means it is both consistent with the LCP and will have no negative impact on coastal resources. Although staff should be commended for working to ensure that the law is followed with respect to the interaction of the LCP and the Order, the argument in Section V above demonstrates why their conclusion is erroneous. The LCP does not override the Order with respect to attached ADUs; on the contrary, the LCP incorporates the Order at LBMC Section 25.07.010. Similarly, the Commission cannot override the City with respect to the Order's implementation through the LCP.

For the reasons stated above, we respectfully urge the Commission to reject the Executive Director's determination that the project is not covered by the Order, and further to find that because the Order is administered through the City's LCP, the Commission is without jurisdiction to control the question in the first place.

Sincerely,



David J. Deerson

Attorney for Steven and Karen Reinecke

Attachments: Exhibits A through Q

²⁵ See Email from Daniel Latham (Exh. Q).