



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
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KATHLEEN MOLLOY, PLANNING DIRECTOR

June 5, 2019

AGENDA DATE: June 12, 2019

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: CONTINUED PUBLIC HEARING TO CONSIDER THE BOARD OF SUPERVISOR'S REVISIONS TO THE PLANNING COMMISSION'S RECOMMENDED GENERAL PLAN/LOCAL COASTAL PROGRAM AND COUNTY CODE CHAPTER 13.10 AMENDMENTS FOR CREATION OF A PERMANENT ROOM HOUSING (PRH) COMBINING ZONE DISTRICT, WITH ASSOCIATED CEQA NOTICE OF EXEMPTION

Recommended Action(s):

- 1) Reopen the continued public hearing to review proposed amendments to Santa Cruz County General Plan/Local Coastal Program and County Code that would establish a Permanent Room Housing (PRH) Combining Zone District, with revisions directed by the Board of Supervisors, and
- 2) Adopt the attached resolution (Exhibit A) recommending that the Board of Supervisors:
 - a. Affirm that the proposed amendments are exempt from CEQA and direct staff to file the California Environmental Quality Act (CEQA) Notice of Exemption (Exhibit B) with the Clerk of the Board, and
 - b. Adopt amendments to General Plan/Local Coastal Program and County Code (Exhibits C and D) enabling and creating the PRH Combining Zone District.

EXECUTIVE SUMMARY

The proposed project implements Program 4.5 of the County's General Plan Housing Element by establishing a Permanent Room Housing (PRH) Combining Zone District. This district would recognize conversion of obsolete visitor accommodations and care facilities to residential use. The Land Use Element of the General Plan and Chapter 13.10 of the County Code would be amended to establish the combining district. The project is exempt from CEQA review because the nine properties that have applied to join the district are already in use as permanent housing so there are no reasonably foreseeable environmental impacts from the creation of the PRH district. Amendments to Chapter 13.10 are Coastal Implementing and will require Coastal Commission certification after County adoption.

At its meeting of May 8, 2019, the Planning Commission considered the Board of Supervisor's desired changes to the proposed amendments to the General Plan/LCP and County Code that had been recommended by Planning Commission Resolution 2019-01. At the May 8 meeting, the Planning Commission continued the matter to June 12, 2019 to give members of the public further time to

review the Board's changes to the amendments and allow staff to respond to questions regarding these changes. Also, the Planning Commission directed staff to revise the proposed ordinance language to clarify that the five-year inspection period may begin at 4.5 years after approval of the Use/Development permit, and to allow property owners 120 days to complete necessary repairs during the inspection period.

In addition to making these changes directed by the Planning Commission, staff has also revised the proposed amendments to reflect a compromise with Coastal Commission staff that would allow the Permanent Room Housing Combining Zone District to apply within the Coastal Zone. Finally, staff has revised certain sections of the proposed ordinance to be clearer and more specific, in response to public comments.

Staff recommends that the Planning Commission conduct a public hearing and adopt the attached resolution (Exhibit A) recommending Board of Supervisors affirm a CEQA Notice of Exemption (Exhibit B) and approve General Plan/LCP Amendments and an ordinance establishing the PRH Combining Zone District (Exhibits C and D), which reflect not only the Board's desired modifications but also the above-noted changes due to further input from Coastal Commission staff and the public.

BACKGROUND

The PRH Combining Zone District would implement the County's Housing Element Program 4.5 by providing a regulatory pathway to allow long-term (30 days or more) housing on former visitor accommodation and care facility properties. These properties can serve an important role in addressing the housing crisis by converting rooms or cabins to housing units that are affordable by design due to their small unit size.

On January 23, 2019, the Planning Commission held a public hearing to consider General Plan/LCP Amendments and County Code updates to establish a new PRH Combining Zone District, and concurrently considered Zoning Plan Amendments and Use/Development Permits to add nine properties to the new district. The Commission was supportive of the PRH Combining Zone District in concept but directed staff to make certain changes to the proposed ordinance and also separated the individual property applications from the General Plan and County Code amendments. The individual property applications were continued to a date uncertain following final approval of the amendments. At a continued public hearing for the amendments on February 13, 2019, the Commission voted to recommend approval of the General Plan/LCP and County Code Amendments, as revised (Planning Commission Resolution 2019-01).

On March 26, 2019, the Board of Supervisors held a public hearing to consider the proposed amendments to the General Plan/LCP and County Code, as recommended by Planning Commission Resolution 2019-01. At a continued public hearing on April 23, 2019, the Board directed staff to make additional changes to the ordinance addressing consistency with the Local Coastal Program, short-term rental rules, five-year periodic inspections, and permit denial/revocation. The Board then referred the amendments back to the Planning Commission for review and recommendation due to the substantive changes that had been made.

On May 8, 2019, the Planning Commission considered the Board of Supervisor's changes to the proposed amendments. The Planning Commission continued this item to June 12, 2019 to give members of the public further time to review the Board's changes to the amendments and allow staff to respond to the public's questions regarding these changes. In addition, staff expressed intention to continue coordination with Coastal Commission to pursue a compromise that would allow Permanent Room Housing Combining District to apply within the Coastal Zone. Finally, the Planning Commission directed staff to revise the proposed ordinance language to allow the five-year inspection

period to begin at 4.5 years after approval of use/development permit and allow 120 days to complete necessary repairs during the inspection period.

ANALYSIS

This staff analysis focuses on changes made to the proposed amendments since the Planning Commission last reviewed this item on May 8, 2019. Please review Exhibits C and D for the full text of these amendments, and review Exhibit G for the May 8, 2019 staff report without exhibits.

General Plan/LCP Amendments

The General Plan/LCP Chapter 2 must be amended to enable establishment of the new PRH Combining Zone District in the County Code. The Planning Commission has previously reviewed proposed amendments to Objective 2.11 and Policies 2.11.1 and 2.11.2, Objective 2.12 and Policy 2.12.4, and Objective 2.16 and Policy 2.16.9¹.

Since the May 8, 2019 public hearing, staff has further modified Policy 2.16.9 to reflect a compromise with Coastal Commission staff to allow the PRH Combining Zone District on properties that are not zoned VA or CT. Also, "LCP" has been added next to Policies 2.11.2 and 2.12.4 to clarify that these two policies are part of both the General Plan and LCP.

Exhibit C is a strikeout-underline copy of the General Plan/LCP Amendment with track changes reflecting changes from the version that the Planning Commission recommended on February 13, 2019, and highlights reflect changes from the version that the Planning Commission reviewed on May 8, 2019.

County Code Amendments

The PRH Combining Zone District would be incorporated into to the County Code as new sections 13.10.424 through 13.10.429. Also, County Code sections 13.10.170(d), 13.10.322, 13.10.332, 13.10.382(A), 13.10.400, and 13.10.700 would be modified to accommodate the new district. SCCC Chapter 13.10 implements the Local Coastal Plan and regulates development in the Coastal Zone when there are not conflicts between Chapters 13.10 and 13.20.

Exhibit D presents a strikeout-underline copy of the ordinance with track changes reflecting changes from the version that the Planning Commission recommended on February 13, 2019, and highlights reflect changes from the version that the Planning Commission reviewed on May 8, 2019. Exhibit E is a clean version of the ordinance, signed as to form by County Counsel.

Following is a discussion of comments received since May 8, 2019, and staff's proposed changes to the ordinance in response to these comments. Public comments are included as Exhibit H.

Local Coastal Program Consistency. The California Coastal Act and the County's LCP contain policies emphasizing that visitor accommodation is prioritized over residential use within the Coastal Zone. In particular, low-cost visitor accommodation uses are to be preserved because this helps to achieve one of the goals of the Coastal Act – to provide coastal access for all. For this reason, local Coastal Commission staff submitted a letter for the May 8, 2019 public hearing stating that they did

¹ Note that language in Policy 2.16.9 referring to the inclusionary housing requirement of 15% was removed because recent case law (Palmer Sixth Street Properties v. City of Los Angeles 2009) has upheld that inclusionary housing requirements for rental housing effectively set rental rates and therefore violate the Costa-Hawkins Rental Housing Act. Also, inclusionary and other affordability requirements are clearly specified in the Housing Element and in Chapter 17 of the County Code. A partial reference to applicable affordability requirements in this location in the GP may lead to confusion, especially since the inclusionary requirement no longer applies to rental units.

not support the Permanent Room Housing Combining Zone District in the Coastal Zone at all. Since then, staff has arrived at a compromise with Coastal Commission staff to exclude "VA" (visitor accommodation) and "CT" (commercial tourism)-zoned parcels from eligibility for the Permanent Room Housing Combining Zone. This compromise allows for the inclusion of Coastal Zone properties with former care facilities and residentially-zoned former visitor accommodation facilities. Former motel properties that have been converted to residential use but still have "VA" or "CT" zoning could apply for rezoning to "RM" (residential multifamily) or "RM-PRH" (residential multifamily with the PRH Combining Zone District if density exceeds the maximum allowed in the RM zone), although it would be challenging to make findings to allow this rezoning. Staff has also updated the ordinance to further clarify consistency with the LCP.

Modifications to the proposed ordinance are as follows:

- 13.10.332 (Commercial Uses Chart): A footnote was added for the VA and CT zones stating that the Permanent Room Housing Combining Zone District is not allowed on VA or CT parcels within the Coastal Zone.
- 13.10.425 (Purposes of the PRH Combining District): The objectives were modified to clarify that conversion from actively operating visitor accommodation use to residential use is only a possible objective outside the Coastal Zone.
- 13.10.426 (Designation of the PRH Combining District): This section was modified to clarify that VA and CT zoned parcels in the Coastal Zone are not eligible for the PRH district.
- 13.10.428(B)(7): An additional application requirement was added, for the applicant to indicate any deed-restricted affordable housing or intention to enter into deed-restricted affordable housing. This was added because the Coastal Act includes policies encouraging affordable housing in the Coastal Zone, and the Coastal Commission would consider whether or not housing was deed-restricted when making findings to approve or deny Coastal Zone property for inclusion in the PRH Combining Zone District. Deed restriction would not be required for Coastal Commission approval but would be a factor in the Commission's decision.

Public comment has been received expressing that the Coastal Zone should be excluded from PRH in order to allow the ordinance to move forward; however, given the status of collaboration with the Coastal Commission, staff does not recommend that the Coastal Zone be excluded from the ordinance.

Definitions and Clarifications. Public comment has been received expressing that any definitions should be limited to County Code section 13.10.700, instead of being listed in both 13.10.700 and 13.10.424. Staff is amenable to this suggestion and the ordinance section 13.10.424 has been updated accordingly.

Public comment also pointed out that some visitor accommodations are not appropriate for PRH; in fact, only Type A (hotel, motel, lodging house) visitor accommodations are appropriate, not Type B (organized camps; group camps; conference centers; hostels; RB parks, tent camping parks). The ordinance has been modified to reflect this.

Public comment requested a definition of "Permanent Room Housing" in addition to the definition of "Permanent Room Housing Unit" already in the proposed code. Staff does not see a need for this additional definition.

Reference to "assisted living facilities" or "convalescent homes" has been removed throughout the ordinance since these two types of facilities are not defined in SCCC 13.10.700 at this time. Instead, reference is made to "nursing homes, residential care facilities or other similar uses." Reference to "congregate care facilities" has also been removed throughout the ordinance since these types of

facilities can already at times be long-term housing for seniors and the intent of the PRH ordinance is to convert from short- to long-term housing uses.

Relationship of PRH to Chapter 17.10 (Affordable Housing Requirements). Public comment has been received expressing that PRH units should not be subject to SCCC 17.10 (Affordable Housing). However, most PRH units that have not previously been recognized as legal housing units by the County would be treated as “new” units in all other respects, and as such would be subject to chapter 17.10.

According to the Measure J ordinance, rental housing projects must pay an impact fee unless 15% of the units are deed-restricted affordable. The Commission may wish to recommend that the Board pass a resolution waiving this fee for Permanent Room Housing Units, and/or classifying these units as “additions, replacements and remodels” per 17.10.034(B)(4), which only requires payment of affordable housing impact fees for units over 500 square feet.

Construction of New Units. Public comment was received expressing that the PRH ordinance should not allow construction of new units, since new units would be less likely to be “affordable by design” and should be required to go through the usual discretionary and ministerial review process. Staff does not recommend removal of potential to construct new units from the proposed ordinance. Any proposed new units on a property in the PRH overlay zone would be subject to discretionary review (Level 6 Planning Commission public hearing to update the Use/Development Permit) as well as ministerial review (building permit) and any other required permits dependent on specific site circumstances. New construction units outside the existing building envelope would only be allowed if the underlying zone’s density allows for additional units. In most cases, properties applying for inclusion in the PRH Combining Zone District will not be able to build units outside existing building envelopes due to density restrictions, but in some cases this would be possible and the intention of the ordinance is not to remove this development potential from these larger properties. Any new PRH units would be required to meet PRH standards (including maximum unit size of 500 square feet, aside from one allowed manager’s unit), which would contribute to the units being more affordable by design than larger new construction units.

As discussed in the May 8, 2019 staff report, the short-term rental use and development standards that were proposed by the Board did not clarify whether or not a property owner should be able to construct a new short-term rental unit that did not replace an existing housing unit, as long as all other use and development conditions are met. Staff has modified the ordinance text as follows to clarify that construction of additional short-term rental units would be allowed:

13.10.427(K)(4). New short-term rental units may be constructed on properties in the PRH Combining Zone District, provided that all use and development standards in section 13.10.427 are met.

Building Permits. Public comment was received requesting that the ordinance should include language regarding building permits as a condition of Use/Development Permits (13.10.428[A][2]) rather than separately in section 13.10.428[A][4]. Staff does not agree that a separate section regarding conditions of approval is needed, but section 13.10.428[A][4] has been updated to clarify that the building permits would be directly related to health and safety requirements identified during the PRH inspection.

Findings for Denial or Revocation. The Board directed staff to add findings of denial or revocation in order to clearly provide a mechanism for the Planning Commission and Board to deny a Zoning Plan Amendment and/or deny or revoke a Use/Development Permit for “bad actors” with outstanding code enforcement and other issues.

Public comment has been received expressing concern that the proposed findings of denial or

revocation are too vague, punitive and allow the County too much discretion. There has been a general request to remove restrictions such as the five-year inspection and the ability to revoke PRH Use/Development Permits in a process that is different from other types of County permits. Staff does not recommend removal of these aspects of the ordinance given Board of Supervisors direction on this topic but agrees that there are places where the ordinance language can be tightened to provide more clarity to property owners considering joining the PRH Combining Zone District.

In a public comment from Dolinger, detailed suggestions were received regarding the findings for denial or revocation, and staff suggests the following changes to the ordinance in response to these suggestions:

- **13.10.428(D)(1)(i): Discovery of untrue statements submitted on an application.**
 - This finding has been changed to "Discovery of false statements intentionally submitted on an application" to clarify that honest mistakes on an application form would not be a cause for permit denial or revocation.
- **13.10.428(D)(1)(ii): Failure to comply with any of the Use/Development standards in 13.10.427.**
 - Dolinger proposes that this finding is too strict and should be changed to allow the property owner enough time to meet the standards before the permit is revoked. Staff does not recommend changing this finding, but instead suggests that 13.10.428(D)(2) can be modified to add an interim notice as a step to the process for revocation:

13.10.428(D)(2) Process for revocation. For any of the reasons listed in section 13.10.428(D)(1), the Planning Director may recommend to the Planning Commission that a PRH Use/Development permit be amended or revoked.

i. The Planning Department must send a notice to the permittee specifying the basis for the Planning Director's recommendation, and the permittee shall have 30 days to respond to this notice.

iii. If the permittee fails to respond to the notice and does not resolve the problem(s) that form the basis for the recommendation of permit revocation, the Planning Commission shall hold a public hearing to consider the Planning Director's recommendation and at least 30 days' written notice of the hearing shall be provided to the permittee specifying the basis for the Planning Director's recommendation.

iv. In the PRH Combining Zone District, this revocation process supersedes the revocation process in section 18.10.136. A revocation decision by the Planning Commission is appealable to the Board of Supervisors per section 18.10.340.

It is important to note that this process is separate from, and would come after, the County's usual code enforcement process which is detailed in SCCC section 19.01.

- **13.10.428(D)(1)(iii): Failure to pass a required five-year inspection to maintain the Use/Development Permit.**
 - Dolinger argues that this finding is too ambiguous because the ordinance does not have standards regarding what is required to pass the inspection. Staff has changed the word "inspection" to "review," which more clearly indicates that this finding is referencing all aspects of 13.10.428(C) rather than only the inspection. An inspection checklist has been developed and reviewed by both the Planning Commission and Board of Supervisors (and is attached as Exhibit F to this staff report). Staff has

modified ordinance section 13.10.427(F) to more clearly state what is required to pass the inspection checklist:

13.10.427(F): Health and Safety Requirements. Existing buildings must meet a checklist of minimum health and safety requirements determined by the County, based on the United States Department of Housing and Urban Development's Housing Quality Standards. A County Building Inspector will conduct inspections to confirm whether properties meet these minimum standards. In order to pass inspection, every item on the inspection checklist must be marked "Yes" or "N/A" for all proposed PRH units.

- **13.10.428(D)(1)(iv): Active County Code violation cases that are unrelated to permanent housing use on the property.**
 - Dolinger argues that this section should be deleted because it is vague and overbroad (does not specify whether tenant or property owner code violations would apply and what is meant by "active" violations). Either tenant or property owner code violations would apply here, but staff agrees that this section can be removed since code cases are covered under section 13.10.428(D)(1)(v).
- **13.10.428(D)(1)(v): Three or more documented, significant violations of County Code within the last two calendar years. Evidence of significant violation includes, but is not limited to, copies of citations, verified complaints, written warnings, or other documentation filed by law enforcement.**
 - Dolinger also requests that this section be removed because it is too vague. However, the proposed code language is written in this way in order to leave the interpretation of what constitutes a "significant" violation at the discretion of County staff and decision-makers. Each code enforcement case is unique and may involve a range of different types of documentation, as well as differing neighbor concerns and impacts. Violations by tenants or property owners would be treated the same way (since regardless of who is responsible for the violation, the violation occurs on the property). If there have been repeated violations by a tenant and the property owner is taking the required legal steps to evict that tenant, the County would take that property owner cooperation into consideration when determining whether the code violation history constitutes a reason for PRH permit revocation.
 - Staff added the words "on the property" to this finding to clarify that the code violations that would be of concern would be violations occurring on the property that were creating nuisances or neighborhood impacts. Staff also added "Notices of Violation" to the list of evidence of significant violations, since this is a common type of code violation documentation that would be issued by the Planning Department's code enforcement staff.
- **13.10.428(D)(1)(vi): Active criminal cases on the property.**
 - Dolinger also requests that this section be removed or changed because it is too vague. However, the proposed language is proposed because there could be a variety of types of criminal cases that could constitute grounds for permit denial or revocation. The language is meant to give Planning staff and decision-makers discretion to review any criminal cases and make these determinations.
 - Staff notes Dolinger's concern regarding a potential due process violation and proposes to modify the text to refer to "documented" crimes committed on the property.
- **13.10.428(D)(1)(vii): Failure to pay transient occupancy tax for historical short-term**

rental use on the property within the past three years.

- Dolinger requested that this finding be modified to allow 45 days notice to the property owner that TOT is owed for the property, and opportunity to appeal, and the expiration of all appeal periods. However, back-payment of TOT would be a requirement for submittal of a complete PRH application, so the property owner would be well aware of this requirement and the permit review process would be subject to the deadlines established by the Permit Streamlining Act. There would be no payment of TOT required for PRH units, once established, so this finding would not apply to permit revocation.
- Staff has added text to provide clarification that the term “current in payment of TOT” in ordinance section 13.10.427(K) means “current” for the past three years, to maintain internal consistency with the “Findings of Denial and Revocation” section of the ordinance. In addition, staff has provided clarification that a property owner has the opportunity to pay up to three years retroactive TOT in order to become current in TOT payment, as is allowed by the County’s Vacation Rental and Hosted Rental ordinances (SCCC 13.10.694[D][1][f] and 13.10.690[E][1][c][i]):

13.10.427(K)(2) Property owner is current in payment of Transient Occupancy Tax (TOT), meaning that any required TOT has been paid for the previous three years.

- i. **Retroactive Payment of TOT.** If a proposed PRH unit has been used for short-term rental in the previous three years, but the owner has not registered and paid TOT, proof of retroactive payment of the TOT amount due to the County to the extent allowed by law for the time during which a proposed PRH unit was being used as a short-term rental shall be submitted.

- **13.10.428(D)(1)(viii): An unacceptable level of adverse neighborhood impacts is being generated by the PRH use.**
 - Dolinger requests that this section be deleted because the terms are vague and suggests that the ordinance might more appropriately reference the County’s public nuisance rules. Staff has responded by modifying the text to clarify that this finding involves adverse impacts that have caused a “public nuisance,” which per SCCC 1.12.050 is defined as “any condition caused or permitted to exist in violation of any of the provisions of this code.”
- **13.10.428(D)(1)(ix). The PRH use is not substantially meeting the purposes of the PRH Combining District.**
 - Dolinger requests that this section be deleted or changed because the finding is vague and gives the County too much discretion. The letter goes on to say that the phrase “affordable by design” is not defined in the code. “Affordable by Design” refers to a dwelling unit that is likely to be affordable to average or below average income renters due to the small size and/or age of the unit. This is different from the SCCC definition of “affordable housing,” since the emphasis here is on building design. A definition of “affordable by design” has not been proposed for SCCC at this time since this is a qualitative concept.

RECENT PUBLIC COMMENT

All public comments received since the Planning Commission’s last decision on this topic on February 13, 2019 are attached as Exhibit H. Note that some comments received are in reference to the Bayview Hotel, which is not under consideration at this time; public hearings for individual property

applications for the PRH Combining Zone District were continued to a date uncertain following final adoption of the General Plan and County Code amendments.

ENVIRONMENTAL REVIEW

The changes proposed to the General Plan and County Code amendments would not change the proposed California Environmental Quality Act (CEQA) Notice of Exemption.

Establishment of the PRH Combining Zone District is exempt from CEQA review per CEQA §15061(b)(3): "where it can be seen with certainty that there is no possibility the activity may have a significant effect on the environment." The project consists of changes to the General Plan/LCP and County Code and is not associated with any specific parcel at this time. Nine property owners have applied to have their properties rezoned into the PRH Combining Zone District, pending approval of the General Plan/LCP and County Code amendments. Rezoning to the PRH Combining Zone District is reasonably foreseeable on these properties. All proposed PRH units on these properties are already in use as permanent housing. Therefore, there are no reasonably foreseeable environmental impacts from the creation of the PRH district. A CEQA Notice of Exemption has been prepared for your consideration and recommendation (Exhibit B).

Daisy Allen
Senior Planner

Stephanie Hansen
Principal Planner

Exhibits:

- A) Proposed Planning Commission Resolution
- B) CEQA Notice of Exemption
- C) Proposed General Plan Amendments – ~~strikeout~~/underline
- D) Proposed Ordinance for PRH Combining Zone District – ~~strikeout~~/underline
- E) Proposed ordinance for PRH Combining Zone District - clean
- F) Proposed Inspection Checklist
- G) May 8, 2019 Planning Commission Staff Report Without Exhibits
- H) Public Comment Since May 8, 2019

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SANTA CRUZ,
STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner:
Duly seconded by Commissioner:
The following Resolution is adopted:

**PLANNING COMMISSION RESOLUTION RECOMMENDING ADOPTION OF
PROPOSED AMENDMENTS TO THE SANTA CRUZ COUNTY GENERAL
PLAN/LOCAL COASTAL PROGRAM OBJECTIVES 2.11 and 2.16 AND
POLICIES 2.11.1, 2.11.2, 2.12.4, and 2.16.9, AND SANTA CRUZ COUNTY CODE
CHAPTER 13.10, ESTABLISHING A PERMANENT ROOM HOUSING (PRH)
COMBINING ZONE DISTRICT, AND CEQA EXEMPTION**

WHEREAS, the County of Santa Cruz is experiencing a housing crisis, in which the supply of housing units, especially affordable housing units and smaller rental units housing one or two people, is not meeting demand; and

WHEREAS, some buildings in the County originally constructed for Type A visitor accommodations or nursing home, residential care or other similar uses have become obsolete for their original purposes; and

WHEREAS, there is an opportunity for these types of properties to serve an important role in addressing the housing crisis by converting short-term occupancy rooms and cabins to long-term (more than 30-day occupancy) housing units that are affordable by design due to age and/or small unit size; and

WHEREAS, the County is aware of properties where visitor accommodations have already been converted to permanent housing, but this use is non-conforming with zoning and/or General Plan/Local Coastal Program designations on those properties, limiting renovation opportunities and placing housing units at risk; and

WHEREAS, Program 4.5 of the County's 2015 Housing Element identifies a "Permanent Room Housing" (PRH) Combining Zone District as a strategy to recognize and regulate permanent housing on these properties; and

WHEREAS, on June 12, 2018, the Board of Supervisors directed staff to proceed with implementing the PRH Combining Zone District as one of a suite of near-term regulatory initiatives to support creation and preservation of affordable housing; and

WHEREAS, in order to implement a PRH Combining Zone District, the County must make amendments to General Plan/Local Coastal Program Objectives 2.11 and 2.16 and Policies 2.11.1 and 2.16.9, and create new Policies 2.11.2 and 2.12.4; and

WHEREAS, in order to implement a PRH Combining Zone District, the County must also make amendments to County Code Chapter 13.10, sections 13.10.170(d), 13.10.322, 13.10.332, 13.10.382(A), 13.10.400, 13.10.700 and add new sections 13.10.424 – 13.10.429; and

WHEREAS, County Code Chapter 13.10 is a Local Coastal Program implementing ordinance; and

WHEREAS, on January 23, 2019, the Planning Commission held a duly-noticed public hearing to consider proposed amendments to the General Plan and Local Coastal Program of the County of Santa Cruz and the Santa Cruz County Code Chapter 13.10 to create a Permanent Room Housing (PRH) Combining Zone District; and

WHEREAS, upon a duly-authorized continuance of its hearing on February 13, 2019, the Planning Commission adopted Resolution 2019-01 by a majority vote of its full membership recommending adoption of proposed amendments to the General Plan and Local Coastal Program and the Santa Cruz County Code Chapter 13.10, based upon findings of consistency with the General Plan and Local Coastal Program and the Coastal Act, and exemption from the requirements of the California Environmental Quality Act pursuant to section 15061(b)(3); and

WHEREAS, the Board of Supervisors for the County of Santa Cruz held a duly-noticed public hearing on March 26, 2019 to consider proposed amendments to the General Plan and Local Coastal Program of the County of Santa Cruz and the Santa Cruz County Code Chapter 13.10 to create a Permanent Room Housing (PRH) Combining Zone District; and

WHEREAS, upon a duly-authorized continuance of its hearing on April 23, 2019, the Board of Supervisors voted by a majority vote of its full membership to make substantial modifications to the amendments as recommended by Planning Commission Resolution 2019-01, and directed staff to refer the modified proposed amendments back to the Planning Commission for review and recommendation; and

WHEREAS, on May 8, 2019, the Planning Commission considered the modified proposed amendments as directed by the Board of Supervisors and then continued that matter to June 12, 2019, to give members of the public further time to review the Board's modified proposed amendments and allow staff to respond to questions regarding these changes; and

WHEREAS, the Planning Commission has reviewed the proposed General Plan/Local Coastal Program Amendments and proposed PRH ordinance and finds that these amendments are consistent with all other elements of the General Plan/Local Coastal Program, meet the intent of Housing Element Policy 4.5, and comply with the California Coastal Act; and

WHEREAS, the proposed PRH Combining Zone District defines and adds PRH as an allowed use on eligible properties, and will be applied to individual properties on a case-by-case basis; and

WHEREAS, the proposed amendments are exempt from CEQA pursuant to Section 15061(b)(3) of the California Environmental Quality Act because the only reasonably foreseeable rezonings pursuant to these actions are currently implementing PRH uses, and therefore it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the Board of Supervisors affirm that the proposed amendments are exempt from CEQA and direct staff to file the Notice of Exemption with the Clerk of the Board; and

BE IT FURTHER RESOLVED that the Planning Commission recommends that the proposed amendments to the County Code and General Plan/Local Coastal Program as presented on this date be adopted by the Board of Supervisors.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of _____, 2019 by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Chairperson

ATTEST: _____
Secretary

APPROVED AS TO FORM:



COUNTY COUNSEL

cc: County Counsel
Planning Department

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Santa Cruz

701 Ocean Street

Santa Cruz, CA 95060

From: (Public Agency): County of Santa Cruz (Planning)
701 Ocean Street 4th Floor
Santa Cruz, 95060

(Address)

Project Title: Permanent Room Housing (PRH) Combining Zone District

Project Applicant: County of Santa Cruz Planning Department

Project Location - Specific:

The PRH Combining Zone District is being created at this time and is available throughout the unincorporated county.

Project Location - City: Unincorporated County Project Location - County: Santa Cruz County

Description of Nature, Purpose and Beneficiaries of Project:

The project creates a "Combining Zone" (overlay) district to recognize conversions of visitor accommodation and care facilities to "permanent room housing" residential units. The district allows property owners to preserve existing housing units that are affordable by design.

Name of Public Agency Approving Project: County of Santa Cruz Board of Supervisors

Name of Person or Agency Carrying Out Project: County of Santa Cruz Planning Department

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☐ Categorical Exemption. State type and section number: _____
- ☒ Statutory Exemptions. State code number: 15061(b)(3)

Reasons why project is exempt:

Please see Attachment 1.

Lead Agency

Contact Person: Daisy Allen

Area Code/Telephone/Extension: 831-454-2801

If filed by applicant:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: _____ Title: _____

☐ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

Revised 2011

Permanent Room Housing Combining Zone District: CEQA Notice of Exemption

Attachment 1: Reasons Why Project Is Exempt

The project consists of changes to the General Plan/Local Coastal Program and County Code and is not associated with any specific parcel at this time. Nine property owners have applied to have their properties rezoned into the PRH Combining Zone District, pending approval of the General Plan/Local Coastal Program and County Code amendments. Rezoning to the PRH Combining Zone District is reasonably foreseeable on these properties. All proposed PRH units on these properties are already in use as permanent housing, and therefore no new environmental impacts could occur from their addition to the district. A list of these nine properties is provided in Table 1.

Table 1: Properties proposed for rezoning with the PRH Combining Zone District.

App #	APN	Address	Owner (Agent)	PRH Units	General Plan*	Existing Zoning	Proposed Zoning
181604	041-511-10	10110 Soquel Dr, Aptos	Lissner Properties (Michael Cox)	10	C-S	C-4	C-4-PRH
181605	084-181-02	14630 Two Bar Rd, Boulder Creek	Ken Clausing (John Agnone)	5	R-R	R-1-15	R-1-15-PRH
181606	084-181-03	14650 Two Bar Rd, Boulder Creek	Ken Clausing (John Agnone)	7	R-R	R-1-15	R-1-15-PRH
181607	081-091-05	13320 Hwy 9, Boulder Creek	John & Susan Koeker (Francis Padilla)	11	R-S	SU	SU-PRH
181608	065-081-13	6154 Hwy 9, Felton	Ken Clausing (John Agnone)	10	C-C	C-2	C-2-PRH
181609	064-272-01	Toll House Resort 4700 Hwy 9, Felton	Toll House (Blackburn Noon Property Management)	6	C-N	CT-L	CT-L-PRH
181610	041-011-34	Bayview Hotel 8041 Soquel Dr, Aptos	Christina Locke (Becky Steinbruner)	6	C-C	C-2-L	C-2-L-PRH
181611	042-032-03	165 East Street, Aptos	John & Susan Koeker (Francis Padilla)	3	R-UH	RM-3	RM-3-PRH
181612	042-032-12	Adobe Hacienda 222 Santa Cruz Ave, Aptos	John & Susan Koeker (Francis Padilla)	15	R-UH	RM-1.5	RM-1.5-PRH

*C-S: Service Commercial. C-C: Community Commercial. C-N: Neighborhood Commercial.
R-R: Rural Residential. R-S: Suburban Residential. R-UH: Urban High Residential.

Proposed Amendments to General Plan and Local Coastal Program as Related to Preserving Permanent Room Housing: Strike-through/Underline

Track Changes: Modifications to Proposed Amendments Since 2/13/19
Highlighted Track Changes: Modifications to Proposed Amendments Since 5/8/19

Objective 2.11 Residential-Density-Bonus Flexible Land Use Strategies for Affordable and Attainable Housing

To provide opportunities for, and encourage the production of, affordable and attainable housing by creating incentives for housing its production; including a density “bonus” increase over residential densities which would otherwise be allowed by the zoning and General Plan designation, and other flexible land use strategies. Appropriate housing types for density bonus development are the same as those appropriate to the General Plan land use and zoning designation in which they are located. (See chapter 4, Housing Element, for additional policies and programs regarding density bonus and provision of affordable housing.)

Policies

2.11.1 Density Bonus for Housing Development

The Density Bonus provisions of State law are hereby incorporated into the General Plan and are implemented in Chapter 17.12 of the County Code which reflect the standards and requirements of the State Density Bonus Law. Appropriate housing types for density bonus development are the same as those appropriate to the General Plan land use and zoning designation in which they are located. (Amended by Res. 41-2006).

2.11.2 Density Allowance for Permanent Room Housing Combining District

(LCP) Regardless of residential land use designation, on properties within the “Permanent Room Housing” Combining District, allow existing densities at the time of rezoning to remain, consistent with an approved Use/Development Permit.

Objective 2.12 Mixed-Use Development

To provide a mix of different types of commercial uses or a mix of commercial and residential or public facility uses in appropriate locations where the combination of uses are complementary and contribute to establishing centers of community activity, housing, and/or commerce.

Policies

2.12.4 Permanent Room Housing Uses in Commercial Designations

(LCP) Regardless of commercial land use designation, allow 100% residential use on properties within the “Permanent Room Housing” Combining District.

Objective 2.16 Visitor Accommodations Designation (C-V)

To provide for a variety of temporary-short-term residential uses in both urban and rural areas which provide for visitor needs, including protection of lower-cost visitor accommodations within the Coastal Zone as feasible, while also preserving the unique environmental settings that attract visitors to the County and protecting residential communities in the County.

Policies

2.16.9 Conversion of Visitor Accommodations to Residential Use

(LCP) Prohibit conversion of visitor accommodations in the coastal zone to any lesser non-priority use unless it is can be demonstrated that it is economically infeasible to use the property for any a higher-priority use. Absolutely prohibit the conversion of hotels or motels with "Visitor Accommodation" or "Tourist Commercial" zoning in the coastal zone unless it can be demonstrated that the visitor accommodations have become structurally, economically or functionally obsolete. Require any visitor accommodations that are converted to a permanent occupancy residential use to conform to applicable General Plan and LCP Land Use Plan Density Standards Program policies and comply with requirements of the Permanent Room Housing (PRH) Combining District and all conditions of approval of the Use/Development Permit for the PRH use where applicable. Provide a minimum of 15 percent of the units as affordable to lower and moderate income households.

ORDINANCE AMENDING SECTIONS 13.10.170(d), 13.10.322, 13.10.332, 13.10.382(A), 13.10.400, 13.10.700-D, 13.10.700-L, and 13.10.700-P, AND ADDING COUNTY CODE SECTIONS 13.10.424, 13.10.425, 13.10.426, 13.10.427, 13.10.428, and 13.10.429, ESTABLISHING A PERMANENT ROOM HOUSING COMBINING ZONE DISTRICT

Track Changes: Modifications to Proposed Amendments Since 2/13/19
Highlighted Track Changes: Modifications to Proposed Amendments Since 5/8/19

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Subdivision (D) of Section 13.10.170 of the Santa Cruz County Code (General Plan Consistency – Zoning Implementation Table) is hereby amended to add the following text to the “Other Designation or Condition:” section of the Zoning Implementation Table:

Permanent Room Housing

PRH –Permanent Room Housing Combining District with ~~all residential, commercial, and special-use~~ RA, RR, R-1, RM, VA, PA, C-1, C-2, C-4, CT and SU zone districts¹

¹ PRH Zoning Plan Amendments in the Coastal Zone are Local Coastal Plan Amendments. Coastal Zone properties are subject to Local Coastal Program policies related to conversion of priority uses.

SECTION II

The Residential Uses Chart of Subsection (B) of Section 13.10.322 of the Santa Cruz County Code is hereby amended to allow Permanent Room Housing under “Residential uses”:

USE	RA	RR	R-1	RB	RM
<u>Permanent Room Housing (subject to SCCC 13.10.424 – 13.10.429)</u>	<u>6¹</u>	<u>6¹</u>	<u>6¹</u>	<u>6¹</u>	<u>6¹</u>

¹ Coastal Zone properties are subject to Local Coastal Program policies related to conversion of priority uses.

SECTION III

The Commercial Uses Chart of Subsection (B) of Section 13.10.332 of the Santa Cruz County Code (Commercial uses) is hereby amended to allow Permanent Room Housing under “Residential uses”:

USE	PA	VA	CT	C-1	C-2	C-4
<u>Permanent Room Housing (subject to SCCC 13.10.424 – 13.10.429)</u>	<u>6¹</u>	<u>6^{1,2}</u>	<u>6^{1,2}</u>	<u>6¹</u>	<u>6¹</u>	<u>6¹</u>

¹ Coastal Zone properties ~~must adhere to~~ subject to Local Coastal Program policies related to conversion of priority uses.

² In the Coastal Zone, VA and CT-zoned parcels with active visitor accommodation uses are not eligible for the PRH Combining District.

SECTION IV

Section 13.10.382(A) of the Santa Cruz County Code (Uses in the Special Use SU District) is hereby amended to allow Permanent Room Housing:

(A) Allowed Uses.

(1) All uses allowed in the RA and R-1 Zone Districts shall be allowed in the Special Use SU District where consistent with the General Plan and Local Coastal Program and when authorized at the highest approval levels specified in the uses chart in SCCC 13.10.322(B) for those districts.

(2) All uses allowed in zone districts other than RA and R-1 shall be allowed in the Special Use SU District where consistent with the General Plan and Local Coastal Program and when authorized at the highest approval level required by all such districts but no lower than Level V, with the exception of Permanent Room Housing, which shall be allowed with a Use/Development Permit processed with public notice and a Planning Commission public hearing (Level VI process), subject to SCCC 13.10.424 – 13.10.429.

SECTION V

Section 13.10.400 of the Santa Cruz County Code (Combining Zone Districts) is hereby amended to add the following text to the list of Combining Zone Districts:

SCCC	Designation	Summary of Limitations Imposed
<u>13.10.424 through 429</u>	<u>PRH (Permanent Room Housing Combining District)</u>	<u>Denotes parcels with structures originally in use as Type A visitor accommodations, nursing homes, residential care facilities congregate care, or other transient accommodations or care facilities, which may be used as permanent multifamily rental housing in multifamily structures or dwelling groups, with specific use and development standards.</u>

SECTION VI

The Santa Cruz County Code is hereby amended by adding Sections 13.10.424, 13.10.425, 13.10.426, 13.10.427, 13.10.428, and 13.10.429, under a new Article II-A, to read as follows:

ARTICLE II-A. "PRH" Permanent Room Housing Combining District.

13.10.424 Definitions.

The following words and phrases are defined in SCCC 13.10.700; whenever used in this section, shall have the following meanings:

(A) "Affordable Housing"

(B) "Hotel"

(C) "Limited Food Preparation Area"

(D) "Lodging House"

(E) "Motel"

(F) "Nursing Home"

(GA) "Permanent Room Housing Unit" means an independent dwelling space intended for long-term (30 days or more) rental occupancy as separate living quarters, with direct access from outside the building or through a common hall, meeting the development standards in SCCC 13.10.427.

(H) "Residential Care Home"

(I) "Visitor accommodations, Type A"

13.10.425 Purposes of the Permanent Room Housing "PRH" Combining District.

The purposes of the Permanent Room Housing "PRH" Combining District are to:

(A) Preserve safe housing that is affordable by design and is often occupied by low- and moderate-income residents who live or work in Santa Cruz County.

(A)(B) Provide property owners with an option to legally recognize or convert use obsolete Type A visitor accommodation, nursing home, residential care, assisted living and other similar facilities to multifamily structures or dwelling groups, with or without support services for multifamily rental housing, while still allowing all underlying land uses associated with a property's zone district;

(C) Inside the Coastal Zone, encourage and protect lower cost visitor accommodation by disallowing conversion of Type A visitor accommodations that are actively operating, or on land zoned VA or CT, to multifamily structures or dwelling groups.

(C) Allow existing motel, hotel, and lodging house (R-1 occupancy) property owners to convert or recognize existing unpermitted or non-conforming permanent, long-term rental housing in multifamily structures (R-2 occupancy) or dwelling groups (R-3 occupancy), as a legal conforming use, with or without support services;

~~(D) — Allow property owners of existing nursing home, residential care, assisted living and other similar facilities (I-1, I-2, R-4 occupancy), to convert to or recognize existing unpermitted non-conforming permanent, long-term multifamily rental housing in multifamily structures (R-2 occupancy) or dwelling group (R-3 occupancy), as a conforming use, with or without support services.~~

The PRH Combining District is intended to add an additional allowed use to eligible properties. ~~This district is not intended to remove development rights from properties within the district.~~ Property owners within this district are not required to maintain multifamily rental housing in perpetuity. Property owners may amend or supersede PRH use/development permits with use/development permits for other land uses that are associated with the property's underlying zone district.

13.10.426 Designation of the Permanent Room Housing “PRH” Combining District.

The Permanent Room Housing “PRH” Combining District shall be available to all RA, RR, R-1, RM, VA, PA, C-1, C-2, C-4, CT and SU-zoned parcels with buildings that were originally established or permitted for Type A visitor accommodation (motel, hotel, lodging house), assisted living facility, nursing home, residential care facility or other similar use. ~~VA-zoned P~~ parcels within the Coastal Zone must comply with ~~are subject to~~ Local Coastal Program policies regarding conversion of priority uses. In the Coastal Zone, VA- and CT-zoned parcels are not eligible for the PRH Combining District.

13.10.427 Use and development standards in the Permanent Room Housing “PRH” Combining District.

The following standards and incentives apply to PRH units in the Permanent Room Housing “PRH” Combining District. Where there are differences between this section and a property's underlying zone district, the provisions of this section shall apply:

(A) Occupancy. The maximum ~~occupancy~~ number of occupants of a permanent room housing unit may not exceed that allowed by the State Uniform Housing Code, or other applicable State law.

(B) Number of Permanent Room Housing Units.

(1) Properties in the PRH Combining Zone District are allowed by right to maintain the number of permanent room housing units present on site at the time that the property is added to the PRH Combining Zone District, subject to the Use/Development Permit.

(2) Property owners may create additional permanent room housing units on site provided that:

(a) Underlying zone district development standards are not exceeded; and

(b) Density may not exceed the maximum residential density allowed as follows:

1. On properties with General Plan Designation Mountain (R-M), Rural (R-R), and Suburban Residential (R-S), maximum density per net

- developable acre is determined by the Rural Density Matrix calculation (SCCC 13.14.060).
2. On properties with General Plan Designation Urban Very Low Density (R-UVL), Urban Low Density (R-UL), Urban Medium Density (R-UM), and Urban High Density (R-UH): maximum density per net developable acre is determined by the General Plan land use designation.
 3. On properties with non-residential General Plan designations: Maximum density is that allowed in the R-UH General Plan Designation. There is no required minimum non-residential square footage on PRH Combining Zone District properties.
- (c) Notwithstanding SCCC 13.10.427(B)(2)(a) and (b), new PRH units may be created within existing building envelopes, provided that these new units meet all other PRH development standards.
- (3) On properties where visitor accommodation is an allowed use, units used exclusively for short-term (less than 30 days) rental are not considered PRH units and are subject to the density requirements in SCCC 13.10.335(B).
 - (4) Property owners may demolish existing PRH units and rebuild PRH units at the maximum density allowed per SCCC 13.10.427(B), with a Use/Development Permit per 13.10.428(A)(2), and in accordance with applicable provisions of 13.10.262 for non-conforming structures.
- (C) Permanent Room Housing Unit Size. Minimum unit size of 120 square feet. Maximum unit size of 500 square feet. Unit size shall be measured from the inside wall of the unit and shall include all conditioned space.
- (1) Maximum Unit Size Exceptions. Existing units larger than 500 square feet may be recognized and allowed through approval of a Use/Development Permit, subject to 13.10.428. New units may not be larger than 500 square feet, except that properties without an existing manager's unit may build one unit up to 1,500 square feet, for habitation by an on-site manager (subject to maximum allowed density and all other site development standards).
 - (2) Minimum Room Size for New Units. New units must meet California Building Code requirements for minimum room area.
- (D) Kitchen Facilities. Each permanent room housing unit must include kitchen facilities that at a minimum meet the definition of "Limited Food Preparation Area" (SCCC 13.10.700-L), or a common kitchen must be provided to adequately serve residents.
- (E) Bathroom Facilities. Each permanent room housing unit must include one full bathroom (sink, toilet, shower or shower/bathtub combination), or common bathroom facilities must be provided on site at a rate of one full bathroom per six units.
- (F) Health and Safety Requirements. Existing buildings must meet a checklist of minimum health and safety requirements determined by the County, based on the United States Department of

Housing and Urban Development's Housing Quality Standards. A County Building Inspector will conduct inspections to confirm whether properties meet these minimum standards. In order to pass inspection, every item on the inspection checklist must be marked "Yes" or "N/A" for all proposed PRH units.

The following health and safety requirements apply to unpermitted structures, historic structures and new construction, renovation and addition projects.

- (1) Unpermitted Structures. Property owners with structures that were built or renovated without building permits must apply for permits based on current building standards. If owners cannot obtain permits for unpermitted structures or renovations based on current code standards, owners may participate in the County's Safe Structures program to obtain a certificate to authorize continued use.
 - (2) Historic Structures. Historic structures must comply with SCCC 16.42.060.
 - (3) New Construction, Renovations, Additions. Any new construction, renovation, or addition must meet current County zoning and building code requirements in the area of work.
- (G) Non-Conforming Structures. Permanent room housing units in legal non-conforming structures (structures that do not meet the setback, height, floor area ratio or lot coverage development standards for the underlying zone district) may be altered per SCCC 13.10.262.
- (H) Off-Street Parking Requirement. 1 space per permanent room housing unit. Parking space dimensions must follow the requirements of SCCC 13.10.554.
- (1) Reduced Parking Allowances. On-site parking for senior, special-needs, and supportive housing may be provided at the following reduced ratios:
 - i. 0.5 parking spaces per unit for senior housing and special-needs housing.
 - ii. 0.3 parking spaces per unit for permanent supportive housing.

In order to qualify for reduced parking allowances, the property owner must provide a signed agreement with the County specifying the type of rental housing to be provided.
- (I) Bicycle Parking. One bicycle parking space per permanent room housing unit is encouraged for properties within 0.5 mile of a Class I, II or III bicycle lane. Bicycle parking space dimensions are provided in SCCC 13.10.560. Storage sheds for bicycles are encouraged but not required.
- (J) Storage. Each permanent room housing unit is encouraged to provide at least 50 cubic feet of storage space in the form of indoor closets, wardrobes, cabinets, indoor common area lockers or storage rooms, or outdoor storage lockers or storage sheds.
- (K) Short-Term Rentals. Short-term (less than 30 day) rentals are ~~not~~ allowed in units in the PRH Combining Zone District if short-term rentals meet the following conditions:
- (1) Short-term rental use is existing at the time the PRH zoning application is submitted, and is legally allowed in the underlying zone district.

(2) Property owner is current in payment of Transient Occupancy Tax (TOT), meaning that any required TOT has been paid for the previous three years.

i. Retroactive Payment of TOT. If a proposed PRH unit has been used for short-term rental in the previous three years, but the owner has not registered and paid TOT, proof of retroactive payment of the TOT amount due to the County to the extent allowed by law for the time during which a proposed PRH unit was being used as a short-term rental shall be submitted.

(3) Maximum 30% of units on parcels in the PRH Combining Zone District may be short-term rental units.

(4) New short-term rental units may be constructed on properties in the PRH Combining Zone District, provided that all use and development standards in section 13.10.427 are met.

~~(1) Short term (less than 30 day) rentals are not allowed in designated PRH units.~~

~~(2) Short term rentals are not allowed anywhere on residentially-zoned properties in the PRH Combining Zone district.~~

~~(3) On commercially-zoned properties where visitor accommodation is an allowed use, and on special use-zoned properties with a non-residential General Plan designation, owners may rent up to 30 percent of units as short term rentals. On properties with a combination of PRH and short term units, PRH units must be identified on the site plan submitted for the PRH Use/Development Permit. Property owners must obtain a Use/Development Permit for short term rental use, pursuant to SCCC 13.10.332 (unless short term rental is a historic, continuing use on the property). Property owners must pay transient occupancy tax for short term rental use, pursuant to SCCC 4.24.~~

13.10.428 Application processing.

(A) Approvals Required. Property owners with eligible parcels must apply for a Zoning Plan Amendment and a Use/Development Permit for inclusion in the PRH Combining Zone District.

(1) Zoning Plan Amendments to add properties to the PRH Combining Zone District allow property owners the option to have permanent room housing units on eligible parcels. Zoning Plan Amendments are processed per SCCC Chapters 13.10 and 18.10.

i. Findings required:

(a) Zoning Plan Amendment Findings per 13.10.215(D)(3)

(b) In the Coastal Zone, former visitor accommodations are functionally obsolete or economically infeasible, documented by conditions such as low occupancy rates and conversion to operation as residential use for three or more years.

(2) Use/Development Permits define the parameters of the permanent room housing use on eligible properties and involve Planning Department review to ensure that eligible parcels meet the use and development standards defined in SCCC 13.10.427. Use/Development Permits must identify the number and location of PRH units on a property. PRH Use/Development Permits are processed as Level VI Approvals per SCCC Chapter 18.10.

Property owners already using a property for permanent room housing must apply for a Use/Development Permit concurrently with a Zoning Plan Amendment. Property owners proposing to convert units to permanent room housing may apply for a Zoning Plan Amendment first, and later apply for a Use/Development Permit before starting to use the property for permanent room housing.

i. Findings required:

(a) Use/Development Permit Findings per 18.10.230(A)

(b) In the Coastal Zone, former visitor accommodations are functionally obsolete or economically infeasible, documented by conditions such as low occupancy rates and operation as residential use for three or more years.

(3) Coastal Development Permits may be required for properties located with the Coastal Zone that do not qualify for an exemption or exclusion per SCCC Chapter 13.20.

(4) Building Permits may be necessary for renovations or additions required by the Planning Department to meet health and safety requirements **that are identified during the PRH inspection.**

(B) Submittal Requirements. Eligible property owners must submit the following information to the Planning Department:

(1) Application Form. Application forms are available at Planning Department Permit Center and on the County Planning Department website.

(2) Owner/Agent Form. If an agent will represent the property owner in submitting the application, the property owner and agent must complete the Owner/Agent Authorization form.

(3) Application Deposit. The application fee is based on hourly rates for staff time to process the application.

(4) Permits, plans or other proof that the property is or was previously used as visitor accommodation, convalescent home or similar use.

(5) Basic site plan and floor plan documenting existing conditions. The site plan must show the location of all property lines, location of all existing buildings, and location of on-site parking spaces. The floor plan must show all units with each unit and rooms within units labeled. Plans are not required to be professionally drawn and do not have to be drawn at a precise scale but must be accurate, neat and readable. The minimum plan size is 11 x 17. Planning Department staff will review compliance with use and development standards, including but not limited to a site visit.

Any proposed renovations or additions must be presented in accordance with usual standards, which may require professionally drawn plans, drawn to scale.

(6) ~~Suggested submittal—not required.~~ Proof of long-term rental at each proposed PRH unit (e.g. lease agreements) indicating the unit number and the rent charged per unit. Personal tenant information should be blacked out.

(7) **Indicate any deed restricted affordable housing or intention to enter into deed restricted affordable housing.**

(C) Five-Year Review Requirement. PRH Use/Development Permits shall include a condition of approval requiring a review by County staff at least once every five years from the date of permit issuance to confirm that the property is continuing to meet the use and development standards outlined in 13.10.427, and to verify compliance with other conditions of approval. The review shall include the following:

(1) Health/safety special inspection by County Building staff. The completed inspection checklist for each five-year special inspection, documenting that the property meets inspection requirements, must be added to the Use/Development Permit file after completion of the special inspection. Inspection of PRH units shall require tenant permission or a warrant (in the case of an immediate threat to health and safety) as required by applicable law, but the inability to conduct inspections may be cause for revocation of PRH Permits.

(2) Any repairs required in order to pass the inspection checklist must be completed within 90 days of the inspection or as determined by the Building Official, and additional special inspection(s) must be conducted to verify that all repairs have been completed. A maximum of three (3) special inspections may be conducted as part of the five-year review.

(3) In order to monitor the intended use of PRH units as “affordable by design” to residents and the workforce, at the time of each five-year special inspection, a report regarding rent rates for each PRH unit shall be provided.

(4) Planning staff shall make the following finding:

i. The property remains in compliance with all requirements of the PRH Use/Development Permit and does not meet any of the reasons for denial listed in section 13.10.428(D)(1).

(5) Five-year review must be complete within 180 days of five-year due date.

(D) Denial or Revocation of Zoning Plan Amendment and/or Use/Development Permit.

(1) Findings for Denial or Revocation. A Zoning Plan Amendment and/or Use/Development Permit may be denied, and a Use/Development Permit may be revoked, for any of the following reasons:

i. Discovery of false statements intentionally submitted on an application. ~~untrue statements submitted on an application.~~

ii. Failure to comply with any of the Use/Development standards listed in 13.10.427.

iii. Failure to pass a required five-year review inspection to maintain the Use/Development Permit within 180 days of five-year due date.

iv. Active County Code violation cases that are unrelated to permanent housing use on the property.

- v. Three or more documented, significant violations of County Code on the property within the last two calendar years. Evidence of significant violation includes, but is not limited to, copies of citations, verified complaints, written warnings and Notices of Violation, or other documentation filed by Planning Department staff and law enforcement.
- vi. Active criminal cases Documented crime committed on the property.
- vii. Failure to pay transient occupancy tax for historical short-term rental use on the property within the past three years.
- viii. An unacceptable level of adverse neighborhood impacts is being generated by the PRH use, causing a public nuisance per SCCC 1.12.050.
- ix. The PRH use is not substantially meeting the purposes of the PRH Combining District.

(2) Process for revocation. For any of the reasons listed in section 13.10.428(D)(1), At any time, the Planning Director may recommend to the Planning Commission that a PRH Use/Development permit be amended or revoked.

- i. The Planning Department must send a notice to the permittee specifying the basis for the Planning Director's recommendation, and the permittee shall have 30 days to respond to this notice.
- ii. If the permittee fails to respond to the notice and does not resolve the problem(s) that form the basis for the recommendation of permit revocation, the Planning Commission shall hold a public hearing to consider the Planning Director's recommendation and at least 30 days' written notice of the hearing shall be provided to the permittee specifying the basis for the Planning Director's recommendation.
- iii. In the PRH Combining Zone District, this revocation process supersedes the revocation process in section 18.10.136. A revocation decision by the Planning Commission is appealable to the Board of Supervisors per section 18.10.340.

13.10.429 Exceptions.

An applicant may request an exception to the requirements of SCCC 13.10.427, pursuant to the following:

- (A) Exceptions to the PRH standards may be granted if the project is found to be consistent with the PRH Combining Zone District Purposes, found in SCCC 13.10.425, the Use/Development Permit findings found in SCCC Chapter 18.10, and at least one of the following additional findings:
 - (1) There are special existing site or improvement characteristics or circumstances that appropriately excuse the project from meeting one or more of the Use and Development Standards in SCCC 13.10.427; or
 - (2) The Permanent Room Housing "PRH" Combining District Purposes, found in SCCC 13.10.425, are better achieved by an alternative design; or

- (3) The granting of an Exception will result in a superior project that is consistent with the Permanent Room Housing “PRH” Combining District Purposes.

- (B) Any decision on an exception shall not establish a precedent for future applications.

SECTION VII

Section 13.10.552(A)(1) of the Santa Cruz County Code (“Resident Parking”) is hereby amended, to add Permanent Room Housing parking requirements:

- (A) Off-street parking spaces for residential uses shall be provided according to the type and size of residence as described below:

- (1) Resident Parking.

Number of Bedrooms	Parking Spaces Required for Single-Family Dwellings and Mobile Homes Used as SFDs Outside of Mobile Home Parks Pursuant to SCCC <u>13.10.682</u>	Parking Spaces Required for Multifamily Dwellings
1	2	2
2	3	2.5
3	3	2.5
4	3	3
Additional	1 each	0.5 each

Mobile Homes in Mobile Home Parks

Size	Parking Spaces Required
1,570 square feet or less	2
Greater than 1,570 square feet and not more than 2,500 square feet	3
Greater than 2,500 square feet	4

Replacement Mobile Homes in Mobile Home Parks

No additional parking spaces are required if the replacement mobile home is no more than 120 percent of the size of the existing mobile home. If the replacement mobile home is more than 120 percent of the size of the existing mobile home, then parking is required according to the size of the replacement unit, as given above.

Permanent Room Housing

<u>Unit</u>	<u>Parking Spaces Required</u>
<u>Permanent Room Housing Unit</u>	<u>1</u>
<u>Permanent Room Housing Unit – Senior Housing or Special-Needs Housing</u>	<u>0.5</u>

Permanent Room Housing

<u>Unit</u>	<u>Parking Spaces Required</u>
<u>Permanent Room Housing Unit – Permanent Supportive Housing</u>	<u>0.3</u>

SECTION VIII

Section 13.10.700-D of the Santa Cruz County Code (“D’ Definitions”) is hereby amended to amend the definition of “Dwelling Unit”:

“Dwelling unit” means a structure for human habitation providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, with the following restrictions: one kitchen is allowed in each dwelling unit, plus up to one additional Limited Food Preparation Area ~~including a sink, a refrigerator, small electric kitchen appliances that do not require electrical service greater than 120 volts; excluding full-sized electric, gas, or propane cooking appliances; and having an appropriately sized preparation counter and storage cabinets, may also be included in any single family dwelling at a rate of one per parcel;~~ interior connection shall be maintained throughout the home; and an interior stairway shall be provided between all stories.

SECTION IX

Section 13.10.700-L of the Santa Cruz County Code (“L’ Definitions”) is hereby amended to add a definition of “Limited Food Preparation Area”:

“Limited Food Preparation Area” means limited kitchen facilities including a sink, a refrigerator, and small electric kitchen appliances that do not require electrical service greater than 120 volts; and an appropriately sized food preparation counter and storage cabinets. Full-sized electric, gas, or propane cooking appliances are not allowed in a Limited Food Preparation Area.

“Lodging House” means a dwelling in which lodging or lodging and meals are provided for compensation for more than three but not more than 15 persons other than members of the resident family excepting a nursing home or permanent room housing unit as defined herein.

SECTION X

Section 13.10.700-P of the Santa Cruz County Code (“P’ Definitions”) is hereby amended to add a definition of “Permanent Room Housing Unit”:

“Permanent Room Housing Unit” means an independent dwelling space intended for long-term (30 days or more) rental occupancy as separate living quarters, with direct access from outside the building or through a common hall, meeting the development standards in SCCC 13.10.427.

SECTION XI

This Ordinance shall take effect on the 31st day following adoption, or upon certification by the California Coastal Commission, whichever is later.

PASSED AND ADOPTED this _____ day of _____, 2019 by the Board of Supervisors and the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FROM: _____
County Counsel

ORDINANCE AMENDING SECTIONS 13.10.170(d), 13.10.322, 13.10.332, 13.10.382(A), 13.10.400, 13.10.700-D, 13.10.700-L, and 13.10.700-P, AND ADDING COUNTY CODE SECTIONS 13.10.424, 13.10.425, 13.10.426, 13.10.427, 13.10.428, and 13.10.429, ESTABLISHING A PERMANENT ROOM HOUSING COMBINING ZONE DISTRICT

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Subdivision (D) of Section 13.10.170 of the Santa Cruz County Code (General Plan Consistency – Zoning Implementation Table) is hereby amended to add the following text to the “Other Designation or Condition:” section of the Zoning Implementation Table:

Permanent Room Housing

PRH –Permanent Room Housing Combining District with RA, RR, R-1, RM, VA, PA, C-1, C-2, C-4, CT and SU zone districts¹

- ¹ PRH Zoning Plan Amendments in the Coastal Zone are Local Coastal Plan Amendments. Coastal Zone properties are subject to Local Coastal Program policies related to conversion of priority uses.

SECTION II

The Residential Uses Chart of Subsection (B) of Section 13.10.322 of the Santa Cruz County Code is hereby amended to allow Permanent Room Housing under “Residential uses”:

USE	RA	RR	R-1	RB	RM
Permanent Room Housing (subject to SCCC 13.10.424 – 13.10.429)	6 ¹	6 ¹	6 ¹	6 ¹	6 ¹

¹ Coastal Zone properties are subject to Local Coastal Program policies related to conversion of priority uses.

SECTION III

The Commercial Uses Chart of Subsection (B) of Section 13.10.332 of the Santa Cruz County Code (Commercial uses) is hereby amended to allow Permanent Room Housing under “Residential uses”:

USE	PA	VA	CT	C-1	C-2	C-4
Permanent Room Housing (subject to SCCC 13.10.424 – 13.10.429)	6 ¹	6 ^{1,2}	6 ^{1,2}	6 ¹	6 ¹	6 ¹

¹ Coastal Zone properties are subject to Local Coastal Program policies related to conversion of priority uses.

² In the Coastal Zone, VA and CT-zoned parcels are not eligible for the PRH Combining District.

SECTION IV

Section 13.10.382(A) of the Santa Cruz County Code (Uses in the Special Use SU District) is hereby amended to allow Permanent Room Housing:

(A) Allowed Uses.

(1) All uses allowed in the RA and R-1 Zone Districts shall be allowed in the Special Use SU District where consistent with the General Plan and Local Coastal Program and when authorized at the highest approval levels specified in the uses chart in SCCC 13.10.322(B) for those districts.

(2) All uses allowed in zone districts other than RA and R-1 shall be allowed in the Special Use SU District where consistent with the General Plan and Local Coastal Program and when authorized at the highest approval level required by all such districts but no lower than Level V, with the exception of Permanent Room Housing, which shall be allowed with a Use/Development Permit processed with public notice and a Planning Commission public hearing (Level VI process), subject to SCCC 13.10.424 – 13.10.429.

SECTION V

Section 13.10.400 of the Santa Cruz County Code (Combining Zone Districts) is hereby amended to add the following text to the list of Combining Zone Districts:

SCCC	Designation	Summary of Limitations Imposed
13.10.424 through 429	PRH (Permanent Room Housing Combining District)	Denotes parcels with structures originally in use as Type A visitor accommodations, nursing homes, residential care facilities or other transient accommodations or care facilities, which may be used as permanent multifamily rental housing in multifamily structures or dwelling groups, with specific use and development standards.

SECTION VI

The Santa Cruz County Code is hereby amended by adding Sections 13.10.424, 13.10.425, 13.10.426, 13.10.427, 13.10.428, and 13.10.429, under a new Article II-A, to read as follows:

ARTICLE II-A. "PRH" Permanent Room Housing Combining District.

13.10.424 Definitions.

The following words and phrases are defined in SCCC 13.10.700:

- (A) "Affordable Housing"
- (B) "Hotel"
- (C) "Limited Food Preparation Area"
- (D) "Lodging House"
- (E) "Motel"
- (F) "Nursing Home"
- (G) "Permanent Room Housing Unit"
- (H) "Residential Care Home"
- (I) "Visitor accommodations, Type A"

13.10.425 Purposes of the Permanent Room Housing "PRH" Combining District.

The purposes of the Permanent Room Housing "PRH" Combining District are to:

- (A) Preserve safe housing that is affordable by design and often occupied by low- and moderate-income residents who live or work in Santa Cruz County.
- (B) Provide property owners with an option to legally recognize or convert obsolete Type A visitor accommodation, nursing home, residential care, and other similar facilities to multifamily structures or dwelling groups, with or without support services;
- (C) Inside the Coastal Zone, encourage and protect lower cost visitor accommodation by disallowing conversion of Type A visitor accommodations that are actively operating, or on land zoned VA or CT, to multifamily structures or dwelling groups.

The PRH Combining District is intended to add an additional allowed use to eligible properties. Property owners within this district are not required to maintain multifamily rental housing in perpetuity. Property owners may amend or supersede PRH use/development permits with use/development permits for other land uses that are associated with the property's underlying zone district.

13.10.426 Designation of the Permanent Room Housing "PRH" Combining District.

The Permanent Room Housing "PRH" Combining District shall be available to all RA, RR, R-1, RM, VA, PA, C-1, C-2, C-4, CT and SU-zoned parcels with buildings that were originally established or permitted for Type A visitor accommodation (motel, hotel, lodging house), nursing home, residential care facility or other similar use. Parcels within the Coastal Zone are subject to Local Coastal Program policies regarding conversion of priority uses. In the Coastal Zone, VA- and CT-zoned parcels are not eligible for the PRH Combining District.

13.10.427 Use and development standards in the Permanent Room Housing "PRH" Combining District.

The following standards and incentives apply to PRH units in the Permanent Room Housing "PRH" Combining District. Where there are differences between this section and a property's underlying zone district, the provisions of this section shall apply:

- (A) Occupancy. The maximum number of occupants of a permanent room housing unit may not exceed that allowed by the State Uniform Housing Code, or other applicable State law.

(B) Number of Permanent Room Housing Units.

- (1) Properties in the PRH Combining Zone District are allowed by right to maintain the number of permanent room housing units present on site at the time that the property is added to the PRH Combining Zone District, subject to the Use/Development Permit.
- (2) Property owners may create additional permanent room housing units on site provided that:
 - (a) Underlying zone district development standards are not exceeded; and
 - (b) Density may not exceed the maximum residential density allowed as follows:
 1. On properties with General Plan Designation Mountain (R-M), Rural (R-R), and Suburban Residential (R-S), maximum density per net developable acre is determined by the Rural Density Matrix calculation (SCCC 13.14.060).
 2. On properties with General Plan Designation Urban Very Low Density (R-UVL), Urban Low Density (R-UL), Urban Medium Density (R-UM), and Urban High Density (R-UH): maximum density per net developable acre is determined by the General Plan land use designation.
 3. On properties with non-residential General Plan designations: Maximum density is that allowed in the R-UH General Plan Designation. There is no required minimum non-residential square footage on PRH Combining Zone District properties.
 - (c) Notwithstanding SCCC 13.10.427(B)(2)(a) and (b), new PRH units may be created within existing building envelopes, provided that these new units meet all other PRH development standards.
- (3) On properties where visitor accommodation is an allowed use, units used exclusively for short-term (less than 30 days) rental are not considered PRH units and are subject to the density requirements in SCCC 13.10.335(B).
- (4) Property owners may demolish existing PRH units and rebuild PRH units at the maximum density allowed per SCCC 13.10.427(B), with a Use/Development Permit per 13.10.428(A)(2), and in accordance with applicable provisions of 13.10.262 for non-conforming structures.

(C) Permanent Room Housing Unit Size. Minimum unit size of 120 square feet. Maximum unit size of 500 square feet. Unit size shall be measured from the inside wall of the unit and shall include all conditioned space.

- (1) Maximum Unit Size Exceptions. Existing units larger than 500 square feet may be recognized and allowed through approval of a Use/Development Permit, subject to 13.10.428. New units may not be larger than 500 square feet, except that properties without an existing manager's unit may build one unit up to 1,500 square feet, for

habitation by an on-site manager (subject to maximum allowed density and all other site development standards).

(2) Minimum Room Size for New Units. New units must meet California Building Code requirements for minimum room area.

- (D) Kitchen Facilities. Each permanent room housing unit must include kitchen facilities that at a minimum meet the definition of "Limited Food Preparation Area" (SCCC 13.10.700-L), or a common kitchen must be provided to adequately serve residents.
- (E) Bathroom Facilities. Each permanent room housing unit must include one full bathroom (sink, toilet, shower or shower/bathtub combination), or common bathroom facilities must be provided on site at a rate of one full bathroom per six units.
- (F) Health and Safety Requirements. Existing buildings must meet a checklist of minimum health and safety requirements determined by the County, based on the United States Department of Housing and Urban Development's Housing Quality Standards. A County Building Inspector will conduct inspections to confirm whether properties meet these minimum standards. In order to pass inspection, every item on the inspection checklist must be marked "Yes" or "N/A" for all proposed PRH units.

The following health and safety requirements apply to unpermitted structures, historic structures and new construction, renovation and addition projects.

- (1) Unpermitted Structures. Property owners with structures that were built or renovated without building permits must apply for permits based on current building standards. If owners cannot obtain permits for unpermitted structures or renovations based on current code standards, owners may participate in the County's Safe Structures program to obtain a certificate to authorize continued use.
 - (2) Historic Structures. Historic structures must comply with SCCC 16.42.060.
 - (3) New Construction, Renovations, Additions. Any new construction, renovation, or addition must meet current County zoning and building code requirements in the area of work.
- (G) Non-Conforming Structures. Permanent room housing units in legal non-conforming structures (structures that do not meet the setback, height, floor area ratio or lot coverage development standards for the underlying zone district) may be altered per SCCC 13.10.262.
 - (H) Off-Street Parking Requirement. 1 space per permanent room housing unit. Parking space dimensions must follow the requirements of SCCC 13.10.554.
 - (1) Reduced Parking Allowances. On-site parking for senior, special-needs, and supportive housing may be provided at the following reduced ratios:
 - i. 0.5 parking spaces per unit for senior housing and special-needs housing.
 - ii. 0.3 parking spaces per unit for permanent supportive housing.

In order to qualify for reduced parking allowances, the property owner must provide a signed agreement with the County specifying the type of rental housing to be provided.

- (I) **Bicycle Parking.** One bicycle parking space per permanent room housing unit is encouraged for properties within 0.5 mile of a Class I, II or III bicycle lane. Bicycle parking space dimensions are provided in SCCC 13.10.560. Storage sheds for bicycles are encouraged but not required.
- (J) **Storage.** Each permanent room housing unit is encouraged to provide at least 50 cubic feet of storage space in the form of indoor closets, wardrobes, cabinets, indoor common area lockers or storage rooms, or outdoor storage lockers or storage sheds.
- (K) **Short-Term Rentals.** Short-term (less than 30 day) rentals are allowed in units in the PRH Combining Zone District if short-term rentals meet the following conditions:
 - (1) Short-term rental use is existing at the time the PRH zoning application is submitted, and is legally allowed in the underlying zone district.
 - (2) Property owner is current in payment of Transient Occupancy Tax (TOT), meaning that any required TOT has been paid for the previous three years.
 - i. **Retroactive Payment of TOT.** If a proposed PRH unit has been used for short-term rental in the previous three years, but the owner has not registered and paid TOT, proof of retroactive payment of the TOT amount due to the County to the extent allowed by law for the time during which a proposed PRH unit was being used as a short-term rental shall be submitted.
 - (3) Maximum 30% of units on parcels in the PRH Combining Zone District may be short-term rental units.
 - (4) New short-term rental units may be constructed on properties in the PRH Combining Zone District, provided that all use and development standards in section 13.10.427 are met.

13.10.428 Application processing.

- (A) **Approvals Required.** Property owners with eligible parcels must apply for a Zoning Plan Amendment and a Use/Development Permit for inclusion in the PRH Combining Zone District.
 - (1) Zoning Plan Amendments to add properties to the PRH Combining Zone District allow property owners the option to have permanent room housing units on eligible parcels. Zoning Plan Amendments are processed per SCCC Chapters 13.10 and 18.10.
 - i. Findings required:
 - (a) Zoning Plan Amendment Findings per 13.10.215(D)(3)
 - (b) In the Coastal Zone, former visitor accommodations are functionally obsolete or economically infeasible, documented by conditions such as low occupancy rates and operation as residential use for three or more years.
 - (2) Use/Development Permits define the parameters of the permanent room housing use on eligible properties and involve Planning Department review to ensure that eligible parcels meet the use and development standards defined in SCCC 13.10.427. Use/Development Permits must identify the number and location of PRH units on a property. PRH

Use/Development Permits are processed as Level VI Approvals per SCCC Chapter 18.10.

Property owners already using a property for permanent room housing must apply for a Use/Development Permit concurrently with a Zoning Plan Amendment. Property owners proposing to convert units to permanent room housing may apply for a Zoning Plan Amendment first, and later apply for a Use/Development Permit before starting to use the property for permanent room housing.

i. Findings required:

(a) Use/Development Permit Findings per 18.10.230(A)

(b) In the Coastal Zone, former visitor accommodations are functionally obsolete or economically infeasible, documented by conditions such as low occupancy rates and operation as residential use for three or more years.

(3) Coastal Development Permits may be required for properties located with the Coastal Zone that do not qualify for an exemption or exclusion per SCCC Chapter 13.20.

(4) Building Permits may be necessary for renovations or additions required by the Planning Department to meet health and safety requirements that are identified during the PRH inspection.

(B) Submittal Requirements. Eligible property owners must submit the following information to the Planning Department:

(1) Application Form. Application forms are available at Planning Department Permit Center and on the County Planning Department website.

(2) Owner/Agent Form. If an agent will represent the property owner in submitting the application, the property owner and agent must complete the Owner/Agent Authorization form.

(3) Application Deposit. The application fee is based on hourly rates for staff time to process the application.

(4) Permits, plans or other proof that the property is or was previously used as visitor accommodation, convalescent home or similar use.

(5) Basic site plan and floor plan documenting existing conditions. The site plan must show the location of all property lines, location of all existing buildings, and location of on-site parking spaces. The floor plan must show all units with each unit and rooms within units labeled. Plans are not required to be professionally drawn and do not have to be drawn at a precise scale but must be accurate, neat and readable. The minimum plan size is 11 x 17. Planning Department staff will review compliance with use and development standards, including but not limited to a site visit.

Any proposed renovations or additions must be presented in accordance with usual standards, which may require professionally drawn plans, drawn to scale.

(6) Proof of long-term rental at each proposed PRH unit (e.g. lease agreements) indicating the unit number and the rent charged per unit. Personal tenant information should be blacked out.

- (7) Indicate any deed restricted affordable housing or intention to enter into deed restricted affordable housing.
- (C) Five-Year Review Requirement. PRH Use/Development Permits shall include a condition of approval requiring a review by County staff at least once every five years from the date of permit issuance to confirm that the property is continuing to meet the use and development standards outlined in 13.10.427, and to verify compliance with other conditions of approval. The review shall include the following:
- (1) Health/safety special inspection by County Building staff. The completed inspection checklist for each five-year special inspection, documenting that the property meets inspection requirements, must be added to the Use/Development Permit file after completion of the special inspection. Inspection of PRH units shall require tenant permission or a warrant (in the case of an immediate threat to health and safety) as required by applicable law, but the inability to conduct inspections may be cause for revocation of PRH Permits.
 - (2) Any repairs required in order to pass the inspection checklist must be completed within 90 days of the inspection or as determined by the Building Official, and additional special inspection(s) must be conducted to verify that all repairs have been completed. A maximum of three (3) special inspections may be conducted as part of the five-year review.
 - (3) In order to monitor the intended use of PRH units as “affordable by design” to residents and the workforce, at the time of each five-year special inspection, a report regarding rent rates for each PRH unit shall be provided.
 - (4) Planning staff shall make the following finding:
 - i. The property remains in compliance with all requirements of the PRH Use/Development Permit and does not meet any of the reasons for denial listed in section 13.10.428(D)(1).
 - (5) Five-year review must be complete within 180 days of five-year due date.
- (D) Denial or Revocation of Zoning Plan Amendment and/or Use/Development Permit.
- (1) Findings for Denial or Revocation. A Zoning Plan Amendment and/or Use/Development Permit may be denied, and a Use/Development Permit may be revoked, for any of the following reasons:
 - i. Discovery of false statements intentionally submitted on an application.
 - ii. Failure to comply with any of the Use/Development standards listed in 13.10.427.
 - iii. Failure to pass a required five-year review to maintain the Use/Development Permit within 180 days of five-year due date.
 - iv. Three or more documented, significant violations of County Code on the property within the last two calendar years. Evidence of significant violation

includes, but is not limited to, copies of citations, verified complaints, written warnings and Notices of Violation, or other documentation filed by Planning Department staff and law enforcement.

- v. Documented crime committed on the property.
 - vi. Failure to pay transient occupancy tax for historical short-term rental use on the property within the past three years.
 - vii. An unacceptable level of adverse neighborhood impacts is being generated by the PRH use, causing a public nuisance per SCCC 1.12.050.
 - viii. The PRH use is not substantially meeting the purposes of the PRH Combining District.
- (2) Process for revocation. For any of the reasons listed in section 13.10.428(D)(1), the Planning Director may recommend to the Planning Commission that a PRH Use/Development permit be amended or revoked.
- i. The Planning Department must send a notice to the permittee specifying the basis for the Planning Director's recommendation, and the permittee shall have 30 days to respond to this notice.
 - ii. If the permittee fails to respond to the notice and does not resolve the problem(s) that form the basis for the recommendation of permit revocation, the Planning Commission shall hold a public hearing to consider the Planning Director's recommendation and at least 30 days' written notice of the hearing shall be provided to the permittee specifying the basis for the Planning Director's recommendation.
 - iii. In the PRH Combining Zone District, this revocation process supersedes the revocation process in section 18.10.136. A revocation decision by the Planning Commission is appealable to the Board of Supervisors per section 18.10.340.

13.10.429 Exceptions.

An applicant may request an exception to the requirements of SCCC 13.10.427, pursuant to the following:

- (A) Exceptions to the PRH standards may be granted if the project is found to be consistent with the PRH Combining Zone District Purposes, found in SCCC 13.10.425, the Use/Development Permit findings found in SCCC Chapter 18.10, and at least one of the following additional findings:
- (1) There are special existing site or improvement characteristics or circumstances that appropriately excuse the project from meeting one or more of the Use and Development Standards in SCCC 13.10.427; or
 - (2) The Permanent Room Housing "PRH" Combining District Purposes, found in SCCC 13.10.425, are better achieved by an alternative design; or
 - (3) The granting of an Exception will result in a superior project that is consistent with the Permanent Room Housing "PRH" Combining District Purposes.

- (B) Any decision on an exception shall not establish a precedent for future applications.

SECTION VII

Section 13.10.552(A)(1) of the Santa Cruz County Code ("Resident Parking") is hereby amended, to add Permanent Room Housing parking requirements:

- (A) Off-street parking spaces for residential uses shall be provided according to the type and size of residence as described below:

- (1) Resident Parking.

Number of Bedrooms	Parking Spaces Required for Single-Family Dwellings and Mobile Homes Used as SFDs Outside of Mobile Home Parks Pursuant to SCCC 13.10.682	Parking Spaces Required for Multifamily Dwellings
1	2	2
2	3	2.5
3	3	2.5
4	3	3
Additional	1 each	0.5 each

Mobile Homes in Mobile Home Parks

Size	Parking Spaces Required
1,570 square feet or less	2
Greater than 1,570 square feet and not more than 2,500 square feet	3
Greater than 2,500 square feet	4

Replacement Mobile Homes in Mobile Home Parks

No additional parking spaces are required if the replacement mobile home is no more than 120 percent of the size of the existing mobile home. If the replacement mobile home is more than 120 percent of the size of the existing mobile home, then parking is required according to the size of the replacement unit, as given above.

Permanent Room Housing

Unit	Parking Spaces Required
Permanent Room Housing Unit	1
Permanent Room Housing Unit – Senior Housing or Special-Needs Housing	0.5
Permanent Room Housing Unit – Permanent Supportive Housing	0.3

SECTION VIII

Section 13.10.700-D of the Santa Cruz County Code (“D’ Definitions”) is hereby amended to amend the definition of “Dwelling Unit”:

“Dwelling unit” means a structure for human habitation providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, with the following restrictions: one kitchen is allowed in each dwelling unit, plus up to one additional Limited Food Preparation Area; interior connection shall be maintained throughout the home; and an interior stairway shall be provided between all stories.

SECTION IX

Section 13.10.700-L of the Santa Cruz County Code (“L’ Definitions”) is hereby amended to add a definition of “Limited Food Preparation Area”:

“Limited Food Preparation Area” means limited kitchen facilities including a sink, a refrigerator, and small electric kitchen appliances that do not require electrical service greater than 120 volts; and an appropriately sized food preparation counter and storage cabinets. Full-sized electric, gas, or propane cooking appliances are not allowed in a Limited Food Preparation Area.

“Lodging House” means a dwelling in which lodging or lodging and meals are provided for compensation for more than three but not more than 15 persons other than members of the resident family excepting a nursing home or permanent room housing unit as defined herein.

SECTION X

Section 13.10.700-P of the Santa Cruz County Code (“P’ Definitions”) is hereby amended to add a definition of “Permanent Room Housing Unit”:

“Permanent Room Housing Unit” means an independent dwelling space intended for long-term (30 days or more) rental occupancy as separate living quarters, with direct access from outside the building or through a common hall, meeting the development standards in SCCC 13.10.427.

SECTION XI

This Ordinance shall take effect on the 31st day following adoption, or upon certification by the California Coastal Commission, whichever is later.

PASSED AND ADOPTED this _____ day of _____, 2019 by the Board of Supervisors and the County of Santa Cruz by the following vote:

AYES:	SUPERVISORS
NOES:	SUPERVISORS
ABSENT:	SUPERVISORS
ABSTAIN:	SUPERVISORS

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST:

Clerk of the Board

APPROVED AS TO FROM:



County Counsel

Permanent Room Housing Inspection Checklist

Building Inspector Instructions: Print and fill out cover page and section 1 for the WHOLE BUILDING or DWELLING GROUP. Print and fill out sections 2 and 3 for EACH UNIT.

ADDRESS: _____

APN: _____

Number of PRH Units: _____

Date of Inspection: _____

Inspection PASS/FAIL

(circle one – to pass, answer must be “Yes” or “N/A” to ALL questions, for ALL units)

Inspector's Notes:

[illegible]

Section 1. Site and Exterior:

- 1.1 Is the property address number visible from the street and are the individual units identified? ☐Yes ☐No
- 1.2. Are there any clear hazards on the property (i.e., dangerous accessory buildings, swimming pools w/o complying barriers.) ☐Yes ☐No
- 1.3. Is the foundation sound and free from hazards? ☐Yes ☐No
- 1.4. Are the exterior stairs, rails and porches sound and free from hazards? ☐Yes ☐No
- 1.5. Are the roof, gutters, and downspouts sound and free from hazards? ☐Yes ☐No
- 1.6. Are exterior surfaces providing sound weatherproofing and free from hazards? ☐Yes ☐No
- 1.7. Is the chimney sound and free from hazards? ☐Yes ☐No ☐N/A
- 1.8. Do the number and configuration of units match the plans? ☐Yes ☐No
- 1.9. Does the parking for the units match the plans, with at least 0.75 parking spaces per unit (see footnote)?¹ ☐Yes ☐No

¹ Lower parking minimums are allowed senior, special-needs, and permanent supportive housing: review the PRH Use Permit for any special parking allowances.

UNIT # _____

Section 2. Interior:

- 2.1.** Can the unit be entered without having to go through another unit? ☐Yes ☐No
- 2.2.** Is there any evidence that the unit's occupancy exceeds legal limits? ☐Yes ☐No
- 2.3.** Are there acceptable fire exits from the building that are not blocked? ☐Yes ☐No
- 2.4.** Are there at least two working outlets or one working outlet and one working light fixture in each unit? ☐Yes ☐No
- 2.5.** Is the room free from electrical hazards? ☐Yes ☐No ☐Unknown
- 2.6.** Are all windows and doors that are accessible from the outside lockable? ☐Yes ☐No
- 2.7.** Is there at least one egress window of appropriate size, and are all windows free of signs of severe deterioration or missing or broken out panes? ☐Yes ☐No
- 2.8.** Is the ceiling sound and free from hazardous defects? ☐Yes ☐No
- 2.9.** Are the walls sound and free from hazardous defects? ☐Yes ☐No
- 2.10.** Is the floor sound and free from hazardous defects? ☐Yes ☐No
- 2.11.** Is there an individual or shared kitchen or kitchenette² with:
- 2.11.1.** The ability to cook food? ☐Yes ☐No
- 2.11.2** A working refrigerator? ☐Yes ☐No
- 2.11.3** A kitchen sink that works with hot and cold running water and P-traps? ☐Yes ☐No
- 2.11.4** Space to store, prepare, and serve food? ☐Yes ☐No
- 2.12.** If there is a common kitchen, is it large enough and appropriately placed to adequately serve residents? ☐Yes ☐No ☐N/A
- 2.13.** Are there working individual or shared restroom facilities that contain:
- 2.13.1** A working toilet that provides private use for the tenant(s)? ☐Yes ☐No
- 2.13.2** A working, permanently installed wash basin with hot and cold running water and P-traps? ☐Yes ☐No

² Minimum kitchen requirement: "Limited Food Prep Area" including a sink, a refrigerator, and small electric kitchen appliances with electrical service greater than 120 volts; and an appropriately sized preparation counter and storage cabinets.

UNIT # _____

- 2.13.3** A working shower or bathtub/shower combination with hot and cold running water? ☐Yes ☐No
- 2.13.4.** Are there operable windows or a working ventilation system? ☐Yes ☐No
- 2.13.5.** If there are common bathroom facilities, is there at least one common full bathroom per six units? ☐Yes ☐No ☐N/A
- 2.14.** Are there working smoke and carbon monoxide detectors in required locations? ☐Yes ☐No
- 2.15.** Is the unit free from rats or severe infestation by mice or vermin? ☐Yes ☐No
- 2.16.** Are interior stairs and common halls free from hazards to the occupant because of loose, broken or missing steps on stairways; absent or insecure railings; inadequate lighting or other hazards? ☐Yes ☐No ☐N/A
- 2.17.** The State of California requires all elevators have a current inspection certificate. Does the elevator have a current certificate? ☐Yes ☐No ☐N/A

Section 3. Heating and Plumbing:

- 3.1.** Is the heating equipment capable of providing adequate heat (either directly or indirectly) to all rooms used for living? ☐Yes ☐No
- 3.2.** Is the unit free from unvented fuel burning space heaters or any other types of unsafe heating conditions? ☐Yes ☐No
- 3.3.** Does the unit have adequate ventilation and cooling by means of openable windows or a working cooling system? ☐Yes ☐No
- 3.4.** Is the water heater located, equipped, and installed in a safe manner? ☐Yes ☐No
- 3.5.** Is the unit served by an approvable public or private sanitary water supply?
☐Yes ☐No
- 3.6.** Is plumbing free from major leaks or corrosion that causes serious and persistent levels of rust or contamination of the drinking water? ☐Yes ☐No
- 3.7.** Is plumbing connected to an approved public or private disposal system?
☐Yes ☐No Private____Public____ (if private, go to item 3.8)
- 3.8.** The County of Santa Cruz requires a current (no more than one year old) compliance report from a licensed private sewage disposal company for private septic systems.
Does the private septic system have a current report? ☐Yes ☐No ☐N/A



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
KATHLEEN MOLLOY, PLANNING DIRECTOR

May 1, 2019

AGENDA DATE: May 8, 2019

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: PUBLIC HEARING TO CONSIDER THE BOARD OF SUPERVISOR'S REVISIONS TO THE PLANNING COMMISSION'S RECOMMENDED GENERAL PLAN/LOCAL COASTAL PROGRAM AND COUNTY CODE CHAPTER 13.10 AMENDMENTS FOR CREATION OF A PERMANENT ROOM HOUSING (PRH) COMBINING ZONE DISTRICT, WITH ASSOCIATED CEQA NOTICE OF EXEMPTION

Recommended Action(s):

- 1) Conduct a public hearing to review proposed amendments to Santa Cruz County General Plan/Local Coastal Program and County Code that would establish a Permanent Room Housing (PRH) Combining Zone District, with revisions directed by the Board of Supervisors, and
- 2) Adopt the attached resolution (Exhibit A) recommending that the Board of Supervisors:
 - a. Affirm that the proposed amendments are exempt from CEQA and direct staff to file the California Environmental Quality Act (CEQA) Notice of Exemption (Exhibit B) with the Clerk of the Board, and
 - b. Adopt amendments to General Plan/Local Coastal Program and County Code (Exhibits C and D) enabling and creating the PRH Combining Zone District.

EXECUTIVE SUMMARY

The proposed project implements Program 4.5 of the County's General Plan Housing Element by establishing a Permanent Room Housing (PRH) Combining Zone District. This district would recognize conversion of obsolete visitor accommodations and care facilities to residential use. The Land Use Element of the General Plan and Chapter 13.10 of the County Code would be amended to establish the district. Because it recognizes existing uses, the project is exempt from CEQA review. Amendments to Chapter 13.10 are Coastal Implementing and will require Coastal Commission certification after County adoption.

On March 26, 2019, the Board of Supervisors held a public hearing to consider the proposed amendments to the General Plan/LCP and County Code, as recommended by Planning Commission Resolution 2019-01. The Board continued the public hearing to April 23, 2019 and directed staff to make the certain changes to the draft ordinance. Prior to the April 23 continued hearing, Planning Department staff met with Coastal Commission staff to review the current version of the proposed General Plan and County Code Amendments. On April 23, 2019, staff presented a revised General Plan Amendment and ordinance incorporating both Board direction and responding to concerns

expressed by Coastal Commission staff. The Board of Supervisors directed staff to make additional changes to the draft ordinance and referred the proposed amendments back to the Planning Commission for review and recommendation.

Staff recommends that the Planning Commission conduct a public hearing and adopt the attached resolution (Exhibit A) recommending Board of Supervisors affirm a CEQA Notice of Exemption (Exhibit B) and approve General Plan/LCP Amendments and an ordinance establishing the PRH Combining Zone District (Exhibits C and D).

BACKGROUND

On January 23, 2019, the Planning Commission held a public hearing to consider General Plan/LCP Amendments and County Code updates to establish a new PRH Combining Zone District, and concurrently considered Zoning Plan Amendments and Use/Development Permits to add nine properties to the new district. The PRH Combining Zone District would implement the County's Housing Element Program 4.5 by providing a regulatory pathway to allow long-term (30 days or more) housing on former visitor accommodation and care facility properties. These properties can serve an important role in addressing the housing crisis by converting rooms or cabins to housing units that are affordable by design due to their small unit size.

The Commission was supportive of the PRH Combining Zone District in concept, but asked staff to make the following changes and return on February 13, 2019 for further deliberation at a continued public hearing:

- Increase the minimum parking requirement from 0.75 to 1 space per PRH unit. Exceptions to this requirement would be considered on a project-by-project basis, per proposed SCCC section 13.10.429.
- Raise the level of review for stand-alone PRH Use/Development permits from Level 4 (public notice) to Level 6 (Planning Commission public hearing).
- Disallow short-term (less than 30 day) rentals in PRH units.
- Disallow short-term rentals on residentially-zoned properties in the PRH Combining Zone District.
- Allow short-term rentals in up to 30% of units on commercially- and special-use-zoned properties, if visitor accommodation is an allowed use in the underlying zone district. Exceptions to this maximum percentage requirement would be considered on a project-by-project basis, per proposed SCCC section 13.10.429.

The Commission also continued consideration of the nine property-specific Zoning Plan Amendments and Use/Development Permits until after the General Plan/LCP and County Code Amendments have been finalized by the Board of Supervisors and Coastal Commission. On February 13, 2019, the Commission voted to recommend approval of the General Plan/LCP and County Code Amendments, as revised.

On March 26, 2019, the Board of Supervisors held a public hearing to consider the proposed amendments to the General Plan/LCP and County Code, as recommended by Planning Commission Resolution 2019-01. The Board continued the public hearing to April 23, 2019 and directed staff to make the following changes to the draft ordinance:

- Disallow short-term rental use on all parcels and units in the PRH Combining Zone District.
- Investigate the possibility of requiring and/or stating the intention that PRH units be rented by moderate- or low-income tenants who live or work in Santa Cruz County, and that preference

be given to retain existing tenants.

- Add findings for denial to the standard Zoning Plan Amendment and Use/Development Permit findings for PRH, that would enable applications for rezoning to be denied and Use/Development Permits to be denied or revoked, on the basis of outstanding zoning code enforcement cases, criminal cases, non-payment of transient occupancy tax (TOT), and other identifiers of “bad actors”.
- Clarify the criteria for “pass” or “fail” on the health/safety inspection for PRH units.
- Require periodic inspections (perhaps every five years) to confirm ongoing “pass” as a condition of approval for PRH Use/Development Permits.
- Require reporting of rent level information for PRH units as part of the initial application and at periodic inspections.

Prior to the April 23 continued Board hearing, Planning Department staff met with Coastal Commission staff to review the current version of the proposed amendments. It was agreed that existing General Plan/LCP policies encourage low-income housing in the Coastal Zone (Policy 2.23.1), which is supportive of the PRH district, while also disallowing conversion of visitor accommodations to housing (Policies 2.16.9 and 2.22.2). Coastal staff expressed general concern about compliance with coastal policies to protect lower cost visitor accommodations and coastal priority uses, as well as specific requests for the code to be more explicit about the need for Local Coastal Plan Amendment when rezoning into PRH and the requirement for a use permit. Based on this discussion, and the fact that the Coastal Act recognizes that conflicting policies sometimes occur and must be balanced, staff made the following additional changes to the ordinance and General Plan Amendment:

- Ordinance:
 - Clarify that in the Coastal Zone, a Local Coastal Plan Amendment is required as part of the Zoning Plan Amendment process.
 - Clarify that conversion of active visitor accommodations is not allowed in the Coastal Zone.
 - Add a finding that in the Coastal Zone, it must be demonstrated that a visitor accommodation use is functionally obsolete or economically infeasible.
- General Plan Amendment:
 - Modify General Plan Objective 2.16 to add protection of lower cost visitor serving accommodations in the Coastal Zone as an objective.
 - Modify General Plan/LCP policy 2.16.9 to clarify the rules regarding conversion of visitor accommodation to residential use inside and outside the Coastal Zone, including the requirement for a use permit.
 - Remove language from General Plan Policy 2.16.9 that refers to a requirement that 15% of the units involved in any conversion from Visitor Accommodation, as inclusionary and other affordability requirements are clearly specified in the Housing Element and in Chapter 17 of the County Code.

On April 23, staff presented the Board of Supervisors with a revised ordinance and General Plan Amendments reflecting both Board direction as well as responding to Coastal concerns. The Board directed staff to make the following additional changes to the ordinance:

- Allow short-term rentals in the PRH district if:
 - Short-term rental use is existing and legally allowed in the underlying zone district
 - Property owner is current on payment of transient occupancy tax
 - Maximum 30% of units on parcels in the district may be short-term rental units
- Provide further detail for the process for revocation of a PRH Use/Development permit.

- Add the following findings for denial or revocation: three or more code complaints (rather than citations), adverse neighborhood impacts, and the PRH use not substantially meeting the purposes of the district.

The Board referred the amendments back to the Planning Commission due to the substantive changes that had been made, and continued their public hearing to May 21, pending Planning Commission recommendation.

ANALYSIS

This staff analysis focuses on changes made to the proposed amendments since the Planning Commission last reviewed this item on February 13, 2019. Please review Exhibits C and D for the full text of these amendments.

General Plan/LCP Amendments

The General Plan/LCP Chapter 2 must be amended to enable establishment of the new PRH Combining Zone District in the County Code. The Planning Commission previously reviewed updates to Objective 2.11 and Policies 2.11.1 and Objective 2.12, and new policies 2.11.2 and 2.12.4. There have been minor text changes to these amendments from the version that was recommended in Planning Commission Resolution 2019-01, but no substantive changes.

In response to comments from the Coastal Commission, Objective 2.16 has been modified to explicitly state that provision of lower-cost visitor accommodation in the Coastal Zone is an objective, where feasible. Also, Policy 2.16.9 has been updated to state that conversion of visitor accommodation to residential use in the Coastal Zone is allowed if it can be demonstrated that the visitor accommodation use is obsolete. In addition, language in Policy 2.16.9 referring to that the inclusionary housing requirement of 15% has been removed, because inclusionary and other affordability requirements are clearly specified in the Housing Element and in Chapter 17 of the County Code. A partial reference to applicable affordability requirements in this location in the GP may lead to confusion, especially since the inclusionary requirement no longer applies to rental units.

Exhibit C is a strikeout-underline copy of the General Plan/LCP Amendment with track changes reflecting changes from the version that the Planning Commission recommended with Resolution 2019-01.

County Code Amendments

The PRH Combining Zone District would be incorporated into to the County Code as new sections 13.10.424 through 13.10.429. Also, County Code sections 13.10.170(d), 13.10.322, 13.10.332, 13.10.382(A), 13.10.400, and 13.10.700 would be modified to accommodate the new district. SCCC Chapter 13.10 implements the Local Coastal Plan and regulates development in the Coastal Zone when there are not conflicts between Chapters 13.10 and 13.20.

There have been multiple substantive changes to the proposed ordinance since the version included in Planning Commission Resolution 2019-01. Exhibit D presents a strikeout-underline copy of the ordinance with track changes reflecting changes from the version that the Planning Commission recommended with Resolution 2019-01. Each substantive update is discussed below.

Ordinance Purpose to serve Local and Low- and Moderate-Income Tenants. Proposed ordinance section 13.10.425 has been updated to add an additional purpose:

- (A) Preserve safe housing that is affordable by design and often occupied by low- and moderate-income residents who live or work in Santa Cruz County.

By adding this purpose to the zone district, the County is affirming that an intention of the district is to preserve housing for vulnerable tenants. The Board stopped short of requiring tenant residency or income level restrictions because residency restrictions could violate the Fair Housing Act, and income restrictions would cause fewer properties to apply for inclusion in the district.

Coastal Zone Requirements. In response to Coastal Commission staff comments, a footnote has been added to section 13.10.170[D] clarifying that Zoning Plan Amendments in the Coastal Zone are Local Coastal Plan Amendments. Footnotes have also been added to this table and to residential, commercial and special use zone district use charts, and section 13.10.426, to state explicitly that Coastal Zone properties must adhere to Local Coastal Plan policies related to conversion of priority uses.

Coastal staff also expressed concern that the ordinance did not state that visitor accommodations are a higher priority use than residential use in the Coastal Zone. Section 13.10.425 (Purposes of the PRH Combining District) has been modified to clarify that conversion of active visitor accommodations is not allowed in the Coastal Zone and the district recognizes the importance of preservation of lower-cost visitor accommodation in the Coastal Zone.

To further emphasize that conversion of former visitor accommodation property in the Coastal Zone is only possible where visitor accommodation use is obsolete or infeasible, proposed code section 13.10.428 (Application processing) has been updated to add a finding for approval in the Coastal Zone as follows:

13.10.428(A) Approvals Required

(1) Zoning Plan Amendments.

(i) Findings required:

(a) Zoning Plan Amendment Findings per 13.10.215(D)(3)

(b) In the Coastal Zone, former visitor accommodations are functionally obsolete or economically infeasible, documented by conditions such as low occupancy rates and operation as residential use for three or more years.

(2) Use/Development Permits

(i) Findings required:

(a) Use/Development Permit Findings per 13.10.215(D)(3)

(b) In the Coastal Zone, former visitor accommodations are functionally obsolete or economically infeasible, documented by conditions such as low occupancy rates and operation as residential use for three or more years.

Short-Term Rental Use Allowed with Special Conditions. On April 23, 2019, the Board revisited the subject of short-term rentals in the PRH district. One public speaker representing a property that had applied for inclusion in the proposed district with six PRH units, indicated that this property would not be able to participate in the district if short-term rental were not allowed. The Board considered a separate motion adding short-term rentals back into the ordinance and voted to allow short-term rental use subject to conditions. Pursuant to direction from the Board, the ordinance now states that short-term rental use is allowed on PRH-zoned properties as follows:

13.10.427(K) Short-Term Rentals. Short-term (less than 30 day) rentals are allowed in units in the PRH Combining Zone District if short-term rentals meet the following conditions:

(1) Short-term rental use is existing at the time the PRH application is submitted and is legally allowed in the underlying zone district.

(2) Property owner is current in payment of Transient Occupancy Tax (TOT).

(3) Maximum 30% of units on parcels in the PRH Combining Zone District may be short-term rental units.

The Planning Commission may wish to discuss whether a property owner should be able to construct a new short-term rental unit that did not replace an existing housing unit, as long as all other use and development conditions are met. If that is the case, clarifications could be added to the proposed ordinance text.

Also, the Commission may wish to discuss whether the term "current in payment of TOT" should be clarified to define "current" for the past three years, to maintain internal consistency with the "Findings of Denial and Revocation" section of the ordinance. In addition, the Commission may wish to further consider whether the ordinance should allow a property owner the opportunity to pay up to three years retroactive TOT in order to become current in TOT payment, as is allowed by the County's Vacation Rental and Hosted Rental ordinances (SCCC 13.10.694[D][1][f] and 13.10.690[E][1][c][i]). In that case, staff can provide language to update the ordinance text.

Five-Year Review and Inspection. The draft ordinance has been updated to add the following five-year inspection requirement:

13.10.428(C) Five-Year Review Requirement. PRH Use/Development Permits shall include a condition of approval requiring a review by County staff at least once every five years from the date of permit issuance to confirm that the property is continuing to meet the use and development standards outlined in 13.10.427, and to verify compliance with other conditions of approval. The review shall include the following:

- (1) Health/safety special inspection by County Building staff. The completed inspection checklist for each five-year special inspection, documenting that the property meets inspection requirements, must be added to the Use/Development Permit file after completion of the special inspection. Inspection of PRH units shall require tenant permission or a warrant (in the case of an immediate threat to health and safety) as required by applicable law, but the inability to conduct inspections may be cause for revocation of PRH Permits.
- (2) Any repairs required in order to pass the inspection checklist must be completed within 90 days of the inspection or as determined by the Building Official, and additional special inspection(s) must be conducted to verify that all repairs have been completed.
- (3) In order to monitor the intended use of PRH units as "affordable by design" to residents and the workforce, at the time of each five-year special inspection a report regarding rent rates for each PRH unit shall be provided.
- (4) Planning staff shall make the following finding:
 - i. The property remains in compliance with all requirements of the PRH Use/Development Permit and does not meet any of the reasons for denial listed in section 13.10.428(D)(1).

By adding this periodic special inspection requirement as a condition of approval for keeping PRH Use/Development permits active, the ordinance provides additional assurance that PRH units would be properly maintained over time.

The front page of the Inspection Checklist has also been updated to state that the answers to all questions on the checklist must be marked "Yes" or "N/A" for all units for property to pass inspection.

The revised inspection checklist with the updated cover page is provided as Exhibit E.

Collect Rent Level Information for PRH Units. Although the ordinance does not require deed-restricted affordable units, the Board directed staff to require reporting of rent levels as a submittal requirement for Use/Development Permit applications, and for five-year inspections:

13.10.428(B) Submittal Requirements

(6) Proof of long-term rental at each proposed PRH unit (e.g. lease agreements) indicating the unit number and the rent charged per unit. Personal tenant information should be blacked out.

13.10.428(C) Five-Year Review Requirement

(3) In order to monitor the intended use of PRH units as “affordable by design” to residents and the workforce, at the time of each five-year special inspection, a report regarding rent rates for each PRH unit shall be provided.

The purpose of collecting this rent information is to provide information on who the PRH units are serving, and how PRH rent levels compare to affordable rent thresholds for moderate- and low-income renters. This will also assist County staff in properly reporting PRH units in our annual Regional Housing Needs Assessment (RHNA) report.

Findings and Process for Denial or Revocation of PRH Zoning Plan Amendments and Use/Development Permits. The Board directed staff to add findings of denial or revocation in order to clearly provide a mechanism for the Planning Commission and Board to deny a Zoning Plan Amendment and/or deny or revoke a Use/Development Permit for “bad actors” with outstanding code enforcement and other issues. The proposed ordinance has been revised to add the following findings of denial or revocation for PRH applications:

(D) Denial or Revocation of Zoning Plan Amendment and/or Use/Development Permit.

(1) Findings for Denial or Revocation. A Zoning Plan Amendment and/or Use/Development Permit may be denied, and a Use/Development Permit may be revoked, for any of the following reasons:

- i. Discovery of untrue statements submitted on an application.
- ii. Failure to comply with any of the Use/Development standards listed in 13.10.427.
- iii. Failure to pass a required five-year inspection to maintain the Use/Development Permit.
- iv. Active County Code violation cases that are unrelated to permanent housing use on the property.
- v. Three or more documented, significant violations of County Code within the last two calendar years. Evidence of significant violation includes, but is not limited to, copies of citations, verified complaints, written warnings, or other documentation filed by law enforcement.
- vi. Active criminal cases on the property.
- vii. Failure to pay transient occupancy tax for historical short-term rental use on the property within the past three years.

viii. An unacceptable level of adverse neighborhood impacts is being generated by the PRH use.

ix. The PRH use is not substantially meeting the purposes of the PRH Combining District.

(2) Process for revocation. At any time, the Planning Director may recommend to the Planning Commission that a PRH Use/Development permit be amended or revoked for any of the reasons listed in section 13.10.428(D)(1). The Planning Commission shall hold a public hearing to consider the Planning Director's recommendation and at least 10 days' written notice of the hearing shall be provided to the permittee specifying the basis for the Planning Director's recommendation. In the PRH Combining Zone District, this revocation process supersedes the revocation process outlined in section 18.10.136. A revocation decision by the Planning Commission is appealable to the Board of Supervisors per section 18.10.340.

As revised pursuant to Board direction, a Zoning Plan Amendment or Use/Development Permit could be denied by the Planning Commission and/or Board of Supervisors at the public hearing(s) required per proposed code section 13.10.428(A). A Use/Development Permit could be revoked by the Planning Commission and that decision could be appealed to the Board per County Code section 18.10.340. It is expected that in most cases, the Planning Director would initiate revocation by making a recommendation to the Planning Commission to revoke permits for specific properties based on code enforcement or criminal cases, or failure to meet five-year inspection requirements.

RECENT PUBLIC OUTREACH/PUBLIC COMMENT

Since the Planning Commission's continued public hearing on February 13, 2019, the Board of Supervisors held legally noticed public hearings on March 26 and April 23. Staff has also developed an email list of interested property owners and members of the public that have attended prior meetings and continues to keep this group informed.

Two written comments were received in advance of the March 26, 2019 Board of Supervisors public hearing regarding the proposed ordinance, both in response to an article that appeared in the Aptos Times on February 15, 2019. One comment expresses the importance that PRH units be available for students. The other comment expresses concern about public confusion or negative association with the proposed district due to the article's statement that PRH units will most likely be available to median income and Section 8 tenants. Two additional written comments were received recently, one suggesting a reward system for good actors rather than a focus on inspections and requirements for bad actors, and the other expressing concern about the pace of public hearings as well as the focus on code violations at the Bayview Hotel but not other hotels that may allow extended stays. Written comments are attached as Exhibit F.

Additionally, public comment was made in person at the Board meetings on March 26 and April 23 expressing support for the district and requesting fewer restrictions for property owners in order to allow more properties to join the district, specifically regarding short-term rentals, and removal of code enforcement complaints as a basis for permit denial or revocation. Some comments also noted that it was unfair to add extra requirements to PRH units that do not apply to other multifamily residential development.

ENVIRONMENTAL REVIEW

Establishment of the PRH Combining Zone District is exempt from California Environmental Quality Act (CEQA) review per CEQA §15061(b)(3): "where it can be seen with certainty that there is no

possibility the activity may have a significant effect on the environment.”

The project consists of changes to the General Plan/LCP and County Code and is not associated with any specific parcel at this time. Nine property owners have applied to have their properties rezoned into the PRH Combining Zone District, pending approval of the General Plan/LCP and County Code amendments. Rezoning to the PRH Combining Zone District is reasonably foreseeable on these properties. All proposed PRH units on these properties are already in use as permanent housing. Therefore, there are no reasonably foreseeable environmental impacts from the creation of the PRH district. A CEQA Notice of Exemption has been prepared for your consideration and recommendation (Exhibit B).

LOCAL COASTAL PROGRAM CONSISTENCY

The proposed amendments will not result in any loss of agricultural land, any loss of coastal access, or any negative impacts to public viewsheds within the Coastal Zone. PRH units would not be allowed on sites in the Coastal Zone with active visitor accommodations, and applicants with former hotels and motels in the Coastal Zone would have to demonstrate that visitor accommodation use has been functionally obsolete or economically infeasible in order to be allowed into the district. Planning staff analysis indicates that the amendments meet the requirements of, and are consistent with, the County's certified Local Coastal Program (LCP) and the California Coastal Act.

Coastal Commission staff is not in agreement regarding the consistency of these proposed amendments with the California Coastal Act. Coastal Commission staff submitted a letter to the Board of Supervisors on April 22, 2019 (Exhibit F) stating that the Coastal Commission staff is not supportive of allowing the PRH district in the Coastal Zone at all, since converting visitor accommodations to residential use conflicts with Coastal policies.

The Coastal Commission letter states that the central purpose of the PRH Combining Zone District is to convert existing visitor accommodations to housing. However, the central purpose of the district is to preserve existing housing that was already converted from former visitor accommodations, as well as former care facilities. In some cases, the zoning on these properties is residential and does not even allow for legal visitor accommodation use. It is in keeping with the Coastal Act and the LCP to allow these sites to join the PRH combining zone district, and the ordinance as written would allow that and would explicitly not allow conversion of existing visitor accommodations to housing in the Coastal Zone.

Staff research indicates that there about 70 potential PRH units in the Coastal Zone where there is existing, long term residential use in former hotels and motels, including about 30 units in residential zones and 40 units in commercial zones. As drafted, the code would provide a pathway for these property owners to apply for inclusion in the district. In fact, two of the applications already in progress with the County are in the Coastal Zone. In consideration of the Coastal Act and General Plan/LCP policies that support more affordable housing options in the Coastal Zone, a more nuanced approach, rather than complete exclusion of Coastal properties, is appropriate. The Coastal Act states that, when Coastal policies are in conflict, a balancing of objectives is warranted. Staff will continue to engage in dialogue with Coastal staff on this topic.

STRATEGIC PLAN

The proposed amendments advance the County Strategic Plan's "Affordable Housing" goal within the "Attainable Housing" focus area. This Combining District would legally recognize the conversion of motels, hotels and convalescent homes to multifamily housing. These housing units are affordable by design due to their small size. Strategic goals include preserving and protecting existing units,

which is an efficient method of increasing housing opportunity when compared to entitling and constructing new units.

FINANCIAL IMPACT

Zoning Plan Amendments and Use/Development Permits have been submitted for nine properties with interested and willing property owners and will be reviewed at a continued public hearing at a date uncertain following adoption of the PRH ordinance and General Plan amendments. The County has processed these discretionary applications concurrently with development of the ordinance. This process has had the benefit of reducing barriers to entry for eligible properties, encouraging property owners to work collaboratively with staff in developing the ordinance, and helping properties reach a conforming status so that these affordable-by-design housing units can be properly maintained. Future applicants for Zoning Plan Amendments and Use/Development Permits would pay for staff time associated with processing these discretionary permits. Any building permits required for new conversion of units or upgrades to existing units in order to meet PRH district requirements would be subject to relevant permitting fees.

Daisy Allen
Senior Planner

Stephanie Hansen
Principal Planner

Exhibits:

- A) Proposed Planning Commission Resolution
- B) CEQA Notice of Exemption
- C) Proposed General Plan Amendments – ~~strikeout~~/underline
- D) Proposed Ordinance for PRH Combining Zone District – ~~strikeout~~/underline
- E) Proposed Inspection Checklist
- F) Public Comment

Daisy Allen

From: Dawn and Gary <dawnandgary@comcast.net>
Sent: Tuesday, May 7, 2019 10:03 PM
To: Stephanie Hansen
Subject: Bayview Hotel

We are resident/owners in Aptos living at 305 Cliff Dr. We understand that affordable housing in all of Santa Cruz County is a problem, but it would seem the biggest issue is for families not individuals. Why does it make sense to pay anyone to provide housing for individuals when Aptos is a family community? Spend our tax dollars where they can do the most good and provide family housing. Gary Martin

Gary's iPhone

Daisy Allen

From: Leslie Dye <leslieidye@gmail.com>
Sent: Wednesday, May 8, 2019 12:47 AM
To: Stephanie Hansen
Cc: Richard Dye
Subject: Aptos Beach Hotel

Stephanie,

My husband Richard and I have lived in Aptos for more than 25 years. We always enjoyed visiting the Aptos Beach Hotel (ABH) for a drink or dinner and, at first, we recommended it to family members who came to visit. Since then the restaurant portion has changed hands at least four times.

Now, at this point, ABH needs a "make-over". It is the PERFECT location for tourists, but who would want to stay there?

Making it a "long term" lodging will only allow it to deteriorate further.

Sprucing it up (at probably an elevated price) would allow the owners to raise the room prices, allowing greater tourist taxation, and increased revenue for the County.

Our suggestion: exactly that - - SOMEONE should renovate so that this historic gem can once again hold its head high with New Leaf Market, Betty's Burgers, Aptos Street Barbecue, Starbucks, Cantine, The Sparrow Cafe and other places of business.

Other than that will only restrict County revenues and detract from the new "shining image" of Aptos Village.

Thank you.

Leslie Dye
(619) 944-7504

Richard Dye
(619) 339-8634

Daisy Allen

From: mercury_miner@netzero.net
Sent: Wednesday, May 8, 2019 4:43 PM
To: Daisy Allen; Michael Lam; Stephanie Hansen
Cc: Paia Levine
Subject: RE: Permanent Room Housing: Update

Dear Santa Cruz County Planning Commissioners and Staff,

On behalf of the local family owners of Lissner Properties, Inc. ("LPI"), thank you so much for approving some additional time for public review of the latest PRH proposal revisions. LPI truly appreciates the hard work and careful deliberations. The PRH issue is complex and significant. Please know that LPI is sincere in its desire to help the program be as successful as possible.

LPI's hopes to submit suggestions to Staff by June 1, 2019. We hope this will be enough time for Staff to consider and make any recommendations prior to the June 12, 2019 hearing.

Have a very good remainder of the week and LPI looks forward to continued work on this important issue.

Best regards,

Michael

Michael Cox
Lissner Properties, Inc.
PO Box 706, Soquel, CA 95073-0706
(831) 459-0572 (office)
(408) 644-7848 (cell)
(831) 475-0572 or (831) 462-1907 (after hours emergency)

1 Weird Trick That "Forces" Your Eye To 20/20 Vision -Try It

Igenics

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Daisy Allen

From: Christine Kiebert-Boss <christine.kiebert.boss@gmail.com>
Sent: Wednesday, May 8, 2019 6:10 PM
To: Stephanie Hansen; Daisy Allen
Subject: Bayview Hotel Aptos

Follow Up Flag: Follow up
Flag Status: Flagged

I am very concerned that the historic Bayview Hotel has been so neglected and mishandled by the property owners. It's an outrage that they can now become a rooming house and collect subsidized rent. As a central icon of Aptos, I can only imagine how it will be taken care of going forward. I don't expect much considering how they have already misused the place. As a State and Nation registered Historic Landmark it is a terrible shame!

Christine Kiebert-Boss
456 Seaview Drive
Aptos since 1971

Daisy Allen

From: mercury_miner@netzero.net
Sent: Wednesday, May 22, 2019 1:33 PM
To: Daisy Allen
Cc: 'Miles Dolinger'; 'John Swift'
Subject: Comment Letter from Lissner Properties, Inc.
Attachments: 2019-05-22 LPI PRH Comment Letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Allen,

Attached please find some general comments from LPI. Miles Dolinger has emailed or will email a separate letter concerning revocation requirements. Would you be able to pass this letter along to the Commissioners via the proper channels? I thought you should have the opportunity to read it first, so you can contact me if you'd like to discuss any of the issues, and especially if you think LPI has misunderstood something. LPI will be happy to send in a correction letter if we have made a significant misinterpretation. Again, LPI is offering these comments in the spirit of positive suggestions to make the ordinance unambiguous and effective.

As always, thank you for your consideration and assistance.

Best regards,

Michael

Michael Cox
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May 22, 2019

Daisy Allen, Planner IV, Sustainability and Special Projects
Santa Cruz County Planning Department
Members of the Santa Cruz County Planning Commission
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

By email only via Daisy Allen, daisy.allen@santacruzcounty.us

Re: June 12, 2019 Planning Commission Meeting, Agenda Item: Permanent Room
Housing (PRH) Combining Zone District

Dear Ms. Allen and Members of the Planning Commission:

I am writing on behalf of Lissner Properties, Inc. ("LPI"). LPI owns the property at 10110 Soquel Drive, which is one of the nine initial properties that stepped forward to explore inclusion in the County's proposed Permanent Room Housing ("PRH") combining zone district. LPI supports the concept of preserving existing housing units that are lower cost owing to their smaller size and limited amenities.

LPI thanks the Planning Commission for agreeing to continue the hearing on this matter from May 8th.

Overall, LPI believes some revisions are needed to make the ordinance less ambiguous and more complete. Our suggestions were reviewed by land use attorney Miles Dolinger and land use consultant John Swift. Mr. Dolinger will be sending some specific comments in a separate letter.

1. Applicability

The proposed ordinance is somewhat confusing because of the mixture of zonings and uses. The Residential (Section II) and Commercial (Section III) Use Charts are somewhat helpful. Would it also be practicable to add a matrix or table that clarifies which combinations of underlying zonings and obsolete uses are eligible for PRH and the Combining District?

Please note that the scope of PRH in the proposed ordinance may have some ambiguity in terminology as to what may or may not be PRH. Uses should have consistent terminology based on the defined use types in Chapter 13.10. Also note that not all visitor accommodation defined in Chapter 13.10, section 13.10.700(V) are appropriate for PRH. To avoid this sort of issue, is it probably best to limit PRH to the obsolete uses for the properties already identified for the program.

2. The Coastal Zone should be excluded.

The California Coastal Commission has objected to the proposed ordinance in an April 22, 2019 letter to the Board of Supervisors. LPI recommends excluding the Coastal Zone if it appears that approval from the Coastal Commission is unlikely in the very near future. This action will allow properties outside the Coastal Zone to move forward.

3. Definitions.

Section 13.10.424 only has a definition for "Permanent Room Housing Unit." The same definition is repeated verbatim in section 13.10.700P. We recommend having definitions only in section 13.10.700 et al. Other definitions in the proposed ordinance are made later, as a part of section 13.10.700 et al.

Section 13.10.424 could be used for a list of essential defined terms currently in the proposed ordinance, but the reader should be referred to Part VII (13.10.700 et al.) for the meaning and/or description.

The PRH zoning ordinance should have a definition of "Permanent Room Housing (PRH)." A definition would reinforce the statement of purposes of the proposed ordinance (13.10.425) and is relevant to the Five-Year Review/inspection and denial and revocation provisions (13.10.428(C) and (D)). LPI suggests the following definition:

Permanent Room Housing is Permanent Room Housing Units eligible for use as long-term residential rental housing pursuant to the Chapter 13.10.424 Permanent Room Housing Combining Zone District provisions and requirements. PRH Units are "affordable by design" owing to their small size (125 sq. ft. to 500 sq. ft.) and limited amenities and are not new construction of affordable housing pursuant to Chapter 17.10.

4. The proposed ordinance should state that Chapter 17.10 does not apply to existing PRH units.

LPI believes that the recognition of long-standing existing PRH Units is neither "creating new dwelling units" nor permitting the "conversion of nonresidential uses to dwelling units" within the intent of Chapter 17.10. LPI recommends that PRH be excluded from the requirements of Chapter 17.10. PRH units are affordable because of their small size, high density, and limited amenities. There is no need to apply Chapter 17.10 affordability requirements in order to make the PRH units affordable. Also, adding an inclusionary requirement will adversely affect property values and/or financing/underwriting issues, which may make these PRH projects financially infeasible. The financial viability of securing and maintaining approved use as PRH is already tenuous enough.

5. Provisions for construction of new units should be deleted.

Section 13.10.427(B)(2) would allow property owners to "create additional permanent room housing units on site." This appears to mean construction of new structures or structural

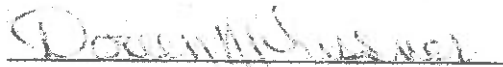
additions and not just construction of units within existing building envelopes. LPI believes this provision should be deleted. Allowing new construction does not preserve PRH, a stated purpose of the ordinance. Trying to address new construction adds complexity, especially with respect to affordability requirements. New construction should go through the normal zoning, use, and development permit procedures. PRH should be limited to existing uses and structures that are readily convertible to PRH Units without substantial structural reconstruction.

6. Building permit requirement is out of place.

Regarding permit application requirements, section 13.10.428(A)(4) states, "Building Permits may be necessary for renovations or additions required by the Planning Department to meet health and safety requirements." Because the conditions of use will be in the control of the County, we think this section should just be deleted. Alternatively, simply state that the applicant is responsible for securing any building permits required for work to address deficiencies identified during the zoning and use approval process, if any.

The inclusion of the language in the section for the application process, as opposed to the satisfaction of the conditions for approved use, raises a concern. LPI wishes to verify that the inspections and remedial work take place under some sort of conditional approval that guarantees final approval will be issued upon the final inspection and sign off of any required work and verification that all of the conditions for final approval have been satisfied.

Yours truly,



Doreen M. Lissner
President and Secretary

CC: Miles Dolinger, Esq. (by email only)

Jonathon Swift, Swift Consulting, Inc. (by email only)

MILES J. DOLINGER

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May 22, 2019

Kathy Molloy, Santa Cruz County Planning Director
Daisy Allen, Planner
Members of the Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

By email only via:

*Kathleen Molloy (Kathy.molloy@santacruzcounty.us), and
Daisy Allen (Daisy.Allen@santacruzcounty.us)*

Re: June 12, 2019 Planning Commission Meeting Agenda Item: Permanent Room
Housing (PRH) Combining Zone District

Dear Ms. Molloy, Ms. Allen and Members of the Planning Commission:

I am writing on behalf of Lissner Properties, Inc. ("LPI"). LPI owns the property at 10110 Soquel Drive, which is one of the nine initial properties that stepped forward to explore inclusion in the County's proposed Permanent Room Housing ("PRH") overlay district.

LPI supports the County's efforts to legalize existing, unpermitted PRH units. LPI believes that the current draft of the PRH ordinance contains a substantial amount of ambiguous and vague terms, which allows for too much County discretion in approving or revoking PRH permits. LPI wants the ordinance that is ultimately adopted to be enforceable and not vulnerable to legal challenge, and LPI is particularly concerned that the suspension and revocation terms in the proposed ordinance are improperly vague. Vagueness may invalidate a law for either of two independent reasons. First, vague terms may fail to provide the kind of notice that will enable ordinary people to understand what conduct it prohibits. Second, vague terms may authorize and even encourage arbitrary and discriminatory enforcement.¹ LPI is specifically concerned that several terms in the Denial or Revocation section (13.10.428(D)(1)), may be unconstitutionally vague.

¹ City of Chicago v Morales (1999) 527 U.S. 41, 56; 119 S.Ct. 1849 (criminal street gang loitering ordinance that failed to establish minimal guidelines for law enforcement was found to be unconstitutional). See also Kolender v Lawson (1983) 461 U.S. 352, 360; 103 S. Ct. 1855 (statute that required a person loitering or wandering from place to place to provide credible and reliable identification on request of a police officer was unconstitutionally vague because it did not specify what constituted "credible and reliable identification."

LPI also believes that several terms in section 13.10.428(D)(1) are too strict and unnecessary for adequate enforcement, and/or several terms are overbroad because they allow the County to revoke permits for code violations that are unrelated to the purpose of the PRH ordinance. A more equitable approach to revocation is to focus on property owners' failure to correct violations of PRH requirements or violations of conditions of approval of specific permits, but only after notice and a reasonable opportunity to cure.

LPI recommends deleting or rewording several of the reasons for denial or revocation contained in subsections (i) through (ix) in section 13.10.428(D)(1) of the proposed ordinance, as follows:

~~(i) *Discovery of untrue statements submitted on an application.*~~

This is too strict because it does not allow for honest mistakes. It should be amended to read "Discovery of false statements made by the owner and/or applicant intentionally."

(ii) *Failure to comply with any of the Use/Development standards listed in 13.10.427.*

This is too strict, especially if the County can schedule a hearing on revoking a PRH permit after only 10 days' notice (which too short a time to obtain counsel, analyze the claims and plan a defense). LPI suggests adding the language, "*or failure to comply with any of the specific conditions of approval, after the owner receives a notice of violation from the County and after the lapse of the specified, allowable or otherwise reasonable time to cure the violation.*"

The suggestion at the Board of Supervisors' meeting that a PRH use permit should be revoked based on a mere complaint or an open investigation file gives the County too much discretion and may constitute a violation of due process. LPI believes that a PRH use permit should be in perpetuity in order to adequately incentivize owners to apply, and that a five-year inspection and re-approval condition is already a burdensome restriction on the proposed entitlement.

(iii) *Failure to pass a required five-year inspection to maintain the Use/Development Permit within 180 days of five-year due date.*

This language is ambiguous, poorly worded, and unacceptably vague because the proposed ordinance lacks any standards for what must be in the "checklist" or what it means to "pass" the inspection. If County's concern is having minimum health and safety standards to protect tenants, then those standards should be described or incorporated from existing, applicable state or county standards.

(iv) *Active County Code violation cases that are unrelated to permanent housing use on the property.*

LPI requests this subsection be deleted because it is so vague and overbroad. This language does not specify what types of code violations are applicable or who the violator must be (a tenant or the property owner), it does not require that a violation exist but only that a case be "active"

(which is undefined), and it could allow revocation based on code violations that are unrelated to the purposes of the proposed ordinance. Furthermore, revoking a permit simply based on some underlying "active" case, with no determination of the underlying violation, may be a due process violation. It simply does not make sense to revoke a PRH permit because of a County Code violation that is unrelated to housing use on the subject property and may be out of the control of the property owner. We understand the concern about allowing "bad actors" to benefit from PRH program, but the ordinance needs to avoid arbitrary or discriminatory County enforcement.

(v) Three or more documented, significant violations of County Code within the last two calendar years. Evidence of significant violation includes, but is not limited to, copies of citations, verified complaints, written warnings, or other documentation filed by law enforcement.

LPI requests this subsection be deleted because it is so vague and overbroad. Is this referring to the same code violations referred to in subsection (vi)? This language does not specify what type of violations qualify or who the violator must be (a tenant or the property owner), and does not define what is meant by "significant". Furthermore, verified complaints by neighbors or written warnings by the County should not be the basis for revocation because those do not constitute actual violations or require the proof of any facts, but simply presume guilt of the underlying violation. Thus, revoking a PRH permit based on a complaint or warning may be a due process violation. Again, the ordinance needs to define what these terms mean in order to avoid arbitrary or discriminatory County enforcement.

(vi) Active criminal cases on the property.

LPI requests this subsection be deleted or substantially revised because it is so vague, ambiguous and overbroad. This proposed language does not specify what type of "criminal cases" apply, it does not specify what it means for a criminal case "to be on the property", it does not specify if the criminal case relates to a land use issue in the property, it does not specify if the criminal cases must involve the property owner, a tenant, or any third party, and it does not require that a criminal violation exist but only that a case be "active" (which is undefined). Revoking a permit simply based on some underlying "active" criminal case, with no determination of the underlying violation, may be a due process violation. The ordinance needs to define these terms in order to avoid arbitrary or discriminatory County enforcement.

(vii) Failure to pay transient occupancy tax for historical short-term rental use on the property within the past three years.

LPI requests that the following language be added to satisfy fairness and notice/due process concerns: "...after 45 days' notice to the property owner that TOT is owed for the property, an opportunity to appeal, and the expiration of all appeal periods."

(viii) An unacceptable level of adverse neighborhood impacts is being generated by the PRH use.

LPI requests this subsection be deleted because the entire phrase is vague, ambiguous and gives the County too much discretion. What is an "adverse neighborhood impact"? What is an "unacceptable level"? The ordinance needs to define these terms in order to avoid arbitrary or discriminatory County enforcement. If an owner is maintaining a public nuisance on a PRH property, then that would be a justifiable reason to revoke a PRH permit, but because nuisance is always a question of fact, the County should have the burden of proving the existence of a nuisance before a neutral decision-maker, such as a superior court or administrative law judge. This subsection is unnecessary because the County Code already has procedures to address public nuisances.

(ix) The PRH use is not substantially meeting the purposes of the PRH Combining District.

LPI requests this subsection be deleted or substantially improved because the entire phrase is vague, ambiguous and gives the County too much discretion, which gives rise to the potential for arbitrary or discriminatory enforcement. Although the proposed ordinance includes a statement of its purposes (see 13.10.425(A)), the stated purpose to permit residential units that are "affordable by design" is vague and ambiguous because that term is undefined. Without defining this term, the County will have unbridled discretion to deny or revoke PRH permits based on an arbitrary determination of whether one or more units at an PRH property are "affordable by design". LPI recommends that the proposed ordinance replace that term with the term "affordable" which is already defined in the Zoning Code at section 13.10.700A according to an objective standard, and incorporate it by reference.

At both the March 26th and April 23rd Board of Supervisors hearings on the proposed ordinance, the Supervisors asked staff to include denial or revocation conditions that were easy for the County to satisfy because: a) at least some of them believed that County enforcement staff rarely issues formal notices of violation, but instead seeks to resolve violations informally and/or without formal NOVs; and b) they do not want "bad actors" to benefit from the PRH program. LPI agrees that "bad actors" should not benefit from the PRH program. Nonetheless, the ordinance should not allow County planning staff to deny or revoke permits without due process on the underlying alleged violation based on mere complaints or open investigation files. Nor should the proposed ordinance allow planning staff to determine someone to be a "bad actor" in their discretion and without objective standards. It is this type of potentially arbitrary or discriminatory enforcement that is prohibited by the line vagueness cases cited above, and which may have a chilling effect on the owners of eligible properties.

Kathy Molloy, Santa Cruz County Planning Director
Daisy Allen, Planner
Members of the Santa Cruz County Planning Commission
May 22, 2019
Page 5

We appreciate your time and consideration.

Yours truly,



Miles J. Dolinger

CC: Michael Cox, LPI Properties, Inc. (by email only)
Jonathon Swift, Swift Consulting, Inc. (by email only)

Daisy Allen

From: Rose Marie McNair <realrose@norcalbroker.com>
Sent: Tuesday, May 28, 2019 8:57 PM
To: Kathy Molloy; Daisy Allen
Cc: Ryan Coonerty; Zach Friend; Bruce McPherson; Greg Caput; John Leopold
Subject: Permanent Room Housing 6/12/19
Attachments: Co_PRH_Letter5819.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

The letter of the May 8 Planning Commission meeting contained items that I wish to expand upon. So, I'm including them in this email.

Whenever a new law or ordinance is introduced, two elements are extremely important, in my opinion: 1) Clarity in a written document that indicates purpose and definitive guidelines and 2) A proviso for Incentives to follow those guidelines so that both the community and the property owner engage in a successful outcome. In this case, this ordinance provides housing that is inexpensive and extremely NEEDED and definitely scarce in Santa Cruz County. It should be noted that many units have been successfully renting on a long term basis with County approval and are therefore a positive example of what we could have if an ordinance is passed that is acceptable and workable.

When the Coastal Commission (CCC) met with the Planning Commission, CCC expressed concerns which, on the one hand, said that low cost housing is encouraged, while on the other hand the CCC also encourages lower cost vacation units. The County's Vacation Rental Ordinance provides an affordable avenue rather than high end hotels, and collects TOT in the process. Vacation Rentals therefore, meet the CCC requirement. And, as to housing that is less expensive, because these old motel units are small studios or one bedroom units, they are affordable "by design"...that means they are not new or fancy, but they are safe, warm and dry and provide a desirable need in our County. So, both elements in the CCC guidelines are met.

Years ago, when the Seacliff Village Plan was involved in the General Plan, discussions regarding parking in the Seacliff area actually produced the ultimate conclusion that the eclectic Seacliff Village without sidewalks, and upgrades, maintained a certain charm, and with the expansive parking lot above the Seacliff Beach, provides ample parking available for a number over 350+ cars. Therefore attempting to add additional restrictions, when not really necessary, once again provides little incentive to create participation in a good program that MIGHT produce a good outcome, i.e., NEEDED housing!

I have concerns about the 5 year inspection proposal—which includes possible revocation of use—appears to be very punitive, and rather than incentivizing property owners and their tenants, may create burdens and possible friction that otherwise would not be an issue. There are many cases where inspections without cause, may be considered violations of privacy laws, as mentioned in the prior letter regarding Santa Barbara inspections.

Finally, thank you to the County staff for your extraordinary diligence in working on this proposed PRH project. We look forward to an ordinance that is clear, concise, has incentives and benefits to property owners, tenants, the County and the community in general. It is definitely possible if we work together. Let's make success happen!

Sincerely,
Rose Marie McNair, REALTOR®



May 8, 2019

RE: Planning Commission Meeting Public Hearing: Permanent Room Housing

Honorable Commissioners,

When the owners were approached by the County with the idea of an Overlay District that would create rental housing in existing properties whose current short term rental use had become obsolete, everyone embraced the idea enthusiastically. Revitalizing properties by allowing this innovation renewed hope: they simply cannot compete with newer, larger hotel facilities that draw tourists to Santa Cruz. Thus, the Permanent Housing Overlay District is a great solution—it provides small affordable rentals, *by design*.

For many reasons, a good idea begins to take another shape with an over-zealous desire to cover every detail, and include it in an ordinance. Instead, too much language, and additional over-burdensome regulation may doom this great idea before it takes flight.

The Center for California Real Estate (CCRE) has done studies on over-regulating housing ordinances: "Regulations defined as zoning controls are the strongest deterrents to development, resulting in substantial reductions primarily to multi-family developments." The article is in the Journal of Case Study Research Volume 3, Winter 2019.

Additionally, it is often much better to offer incentives to property owners, rather than imposing inspections. Recent cases such as the Rental Inspection Ordinance in Santa Barbara, decided this year, indicate that 4th Amendment rights can be violated when mandatory inspections take place.

Please let a good idea become a positive result in Santa Cruz by allowing the possibilities, without too many restrictions. When applying for the permit, each property will be scrutinized, individually. Adding every possible restriction to every property is not feasible.

Thank you for your consideration.

Very truly yours,

Rose Marie McNair, REALTOR®
Housing Advocate
DRE#00547533

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