

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
FAX: (415) 904-5400  
WEB: WWW.COASTAL.CA.GOV



# F8b

**Prepared September 23, 2022 for October 14, 2022 Hearing**

**To:** Commissioners and Interested Persons

**From:** Stephanie Rexing, North Central Coast District Manager  
Erik Martinez, Coastal Planner

**Subject: San Mateo County LCP Amendment Number LCP-2-SMC-22-0004-1  
(Child Care Centers)**

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## SUMMARY OF STAFF RECOMMENDATION

San Mateo County proposes to amend its Local Coastal Program (LCP) Implementation Plan (IP) to create a new Chapter 22.2 ("Child Care Centers"), and to eliminate Section 6401.2 in IP Chapter 22 (General Provisions Relating to Large Family Day Care Homes). In addition, the County proposes IP text amendments to other chapters that contain outdated permit requirements for both Small and Large Day Care Homes, separate definitions for child care facility types including centers, and separate permit requirements for child care centers. The amendment also proposes to add related text amendments to the IP in order to streamline approvals for such child care facilities, including to help ease restrictions on and incentivize child care services within the County. In effect, the proposed changes would establish specific permitting requirements for child care centers and regulate their use in the unincorporated areas of San Mateo County.

As indicated, and at a broad level, the County proposal aims to address the acute County need for more child care facilities by reducing permitting requirements and costs for child care providers within the unincorporated areas of the County. The proposed amendment would: establish specific permitting requirements for child care centers, where specific requirements currently only apply to Large Family Day Care Homes<sup>1</sup> (per Section 6401.2); ease restrictions for a child care center to locate within an existing building of similar use in terms of purpose, intensity, and parking needs (such as commercial and institutional buildings) or compatibility of uses (such as single- and multiple-family residential); allow for expansion of such buildings according to environmental and locational criteria; and allow child care centers to operate with a ministerial permit when located: 1) within existing buildings, allowing for limited expansion, in areas zoned or designated by the General Plan for Commercial or Institutional, or Commercial/Residential Mixed Use land uses; 2) within converted single-family residences on parcels of conforming size which are zoned for Single-

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<sup>1</sup> 'Large Family Day Care Homes' (referred to as Large Family Child Care Homes in the proposal) are State-licensed, residence-based care facilities for up to 14 children.

Family Residential land uses within the coastal zone that must be 10,000 square feet or larger; and 3) within existing or expanded institutional buildings or public facilities as defined by the amendment. The amendment would also create an amnesty program for existing, unpermitted child care centers that have been in continuous operation at a specified location for a minimum of 3 years prior to the effective date of this ordinance, as confirmed by State license documentation.

The proposed amendment includes additional criteria required for ministerial permit approval to include compliance with parking requirements and for child care centers located within a converted single-family residence in a residential zoning district to minimize impacts to public parking access to the coast by assuring parking is accommodated. Similarly, conversion of an existing institutional, commercial (excluding visitor-serving commercial use), or public facility building to a child care center may be considered ministerially provided criteria consistent with the coastal development permit (CDP) exemption criteria are met in order to reduce urban sprawl. New construction, replacement, or reconstruction of a building to accommodate a child care center is subject to full coastal development permitting processes to ensure coastal resource protections and adequate water and sewer services are available to serve the new development. Child care centers that do not meet the ministerial permit criteria of the proposed amendment require a Use Permit and CDP, subject to compliance with applicable policies of the LCP in order to ensure that new development is sited and designed to prevent coastal resource impacts, including to ensure there are adequate services and utilities.

As proposed, the amendment would allow the complete conversion of a single-family residence in a residential zoning district to a child care center without a CDP, and the public noticing and hearing process that comes along with that permit process. However, converting a single-family residence to a child care center is development that requires a CDP, both because it constitutes an intensification of use of land and a change in allowable use. Although child care providers and children occupying houses as part of an in-home facility, is not unlike residential use (including as directed by the legislature), that argument doesn't apply when only the child care use itself occupies that same space as a commercial business disconnected from 'normal' residential use patterns. In that case, the result is a change from residential use to something else, and often a change in the intensity of use as well, which constitutes development under the Coastal Act for which a CDP is required. Therefore, **Suggested Modifications 1 and 2** are necessary to update the permitting requirements table for these types of uses to clearly state that a complete conversion of a single-family residence constitutes an intensification of use and requires a CDP. With those changes, the existing policies in the LCP would continue to protect all relevant coastal resources where these uses would be allowed, assuring consistency with the LCP provisions that require protection of coastal resources such as environmentally sensitive habitat areas (ESHAs), public views, and minimization of the potential for adverse impacts from hazards on new development.

To incentivize the creation of new child care centers in the unincorporated County, the amendment also proposes two new incentive programs, and references incentives provided by the State, including through State density bonus law provisions. However,

the County's proposed density bonus provisions LCP amendment has not been formally submitted for certification, and thus it is premature to apply its provisions to these cases without understanding the ways in which the two proposed LCP amendments interact. **Suggested Modification 3** thus clarifies that such State density bonus law provisions will only apply to once that amendment is certified, and provided it applies to such development.

In conclusion, the proposed amendment if modified as suggested will adequately regulate child care uses in the County without detriment to the coastal resources that require protection by the County's LCP. The amendment with suggested modifications thus strikes an appropriate balance that will encourage and streamline child care centers in the coastal zone while protecting coastal resources, consistent with the County's certified LUP. Accordingly, the proposed IP amendment as modified is consistent with and adequate to carry out the LUP. Therefore, staff recommends that the Commission approve the proposed amendment with the suggested modifications, and County staff is in agreement with the staff recommendation. The required motions and resolutions are found on page 5 below.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on August 25, 2022. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline is October 25, 2022. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until October 25, 2022 to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

*Motion: I move that the Commission extend the time limit to act on San Mateo County Local Coastal Program Amendment Number LCP-2-SMC-22-0004-1 to October 25, 2023, and I recommend a yes vote.*

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**EXHIBITS**

Exhibit 1: Proposed IP Amendment

## 1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make two motions on the LCP amendment in order to act on this recommendation. First the IP amendment needs to be denied as submitted, and then the IP amendment needs to be approved as modified, to complete the staff recommendation.

### **A. Deny the IP Amendment as Submitted**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the County's proposed LCP Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:*** *I move that the Commission reject LCP Implementation Plan Amendment LCP-2-SMC-22-0004-1 as submitted by San Mateo County, and I recommend a yes vote.*

***Resolution to Deny:*** *The Commission hereby denies certification of LCP Amendment LCP-2-SMC-22-0004-1 as submitted by San Mateo County and adopts the findings set forth below on grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified LCP Land Use Plan. Certification of the Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment as submitted.*

### **B. Certify the IP Amendment with Suggested Modifications**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the LCP Implementation Plan amendment with suggested modifications and the adoption of the following resolution and findings. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present:

***Motion:*** *I move that the Commission certify LCP Implementation Plan Amendment LCP-2-SMC-22-0004-1 as submitted by San Mateo County if it is modified as suggested in this staff report, and I recommend a yes vote.*

***Resolution to Certify:*** *The Commission hereby certifies LCP Implementation Plan Amendment LCP-2-SMC-22-0004-1, if modified as suggested, and adopts the findings set forth below on grounds that the Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified LCP Land Use Plan. Certification of the Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Amendment on the environment, or 2) there are no further feasible alternatives and mitigation*

*measures that would substantially lessen any significant adverse impacts on the environment.*

## 2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP Implementation Plan amendment, which are necessary to make the requisite Land Use Plan consistency findings. If San Mateo County accepts the suggested modifications within six months of Commission action (i.e., by April 14, 2023), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in single cross-out and single underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

1. Update text in Table 2 of IP Section 6420.4.2 to check the box denoting a Use Permit and CDP are required next to #2. "Conversion of Single-Family Residence on Parcel > 10,000 sq. ft. in a Residential Zoning District to a CCC including expansion" and update text after as follows:

~~2. Conversion of Single-Family Residence on Parcel >~~

~~10,000 sq. ft. in a Residential Zoning District to a~~

~~CCC, including expansion~~

~~Parking Requirement Met: One on-site parking space~~

~~per six children enrolled~~

~~☒~~

~~Parcel size is 10,000 sf or larger and in a Residential~~

~~Zoning District~~

~~☒~~

~~Design Review District: Development must comply with~~

~~design review standards and permitting requirements~~

~~pertaining to residences.~~

~~☒~~

~~Located in Single-Family Residence Categorical~~

~~Exclusion Area (SFEX)~~

~~☒~~

~~Located outside of SFEX and involving expansion of~~

~~construction of water wells or septic systems~~

~~☒~~

~~Located outside of SFEX and in CCC APJ or Scenic~~

~~Corridor, involving: a) Expansion of 10% or more of~~

~~existing internal floor area; b) additional stories/loft, or~~

~~c) construction or installation of significant nonattached~~

~~structure(s) (excluding play structures and~~

~~fences)~~

~~☒~~

~~Located within a sensitive habitat or buffer zone~~

✕

**2. Delete Footnote 1 in Table 2 of IP Section 6420.4.2.**

**3. Modify IP Section 6420.5 as follows:**

A. State Density Bonus Provisions for CCCs in Effect at the Time of Application:

When an applicant proposes a project that meets the requirements of the State Density Bonus Law, the County shall follow the provisions of State law to determine the applicable density bonus and additional concession(s) or incentive(s). Examples of projects that qualify under State Law include, but are not limited to: (1) a housing development including a child care facility (Government Code Section 65915(h)) and (2) a minimum 50,000 sq. ft. commercial or industrial development including a child care facility (Section 65917.5). Within the coastal zone only: State Density Bonus Law Provisions associated with LCP Section 6440 shall only apply to child care center development if (1) Section 6440 is updated and certified by California Coastal Commission after October 14, 2022; and (2) the so certified Section 6440 allows for its application to child care center development.

**3. FINDINGS AND DECLARATIONS**

**A. Description of Proposed LCP Amendment**

The proposed LCP amendment would create a new Implementation Plan (IP) Chapter 22.2 (“Child Care Centers”) and would eliminate IP Chapter 22 Section 6401.2 (General Provisions Relating to Large Family Day Care Homes). In addition, the amendments propose IP text amendments to other chapters that contain outdated permit requirements for Small and Large Day Care Homes, separate definitions for child care facility types including centers, and separate permit requirements for child care centers. The amendment would add related text amendments to the IP in order streamline approvals for such child care facilities, including as a means to ease restrictions on and incentivize child care services within the County. In effect, the amendments propose to establish specific permitting requirements for child care centers and to regulate their use in the unincorporated areas of San Mateo County.

The proposed amendment defines various child care uses as follows: small family child care home is a State-licensed, residence-based care facility for up to 8 children, in which less than 24-hour per day, non-medical care and supervision are provided to children in a group setting, operated at the residence of the license holder. Pursuant to State law, a small family child care home is considered a residential use of property for the purposes of all County ordinances. Large family child care home is a State-licensed, residence-based care facility for up to 14 children, in which less than 24-hour per day, non-medical care and supervision are provided to children in a group setting, operated at the residence of the license holder and is considered a residential use of property for the purposes of all County ordinances pursuant to State Law. Child care centers are State-licensed care facilities of any capacity, other than a Small or Large Family Child Care Home, in which less than 24-hour per day, non-medical care and supervision are provided to children in a group setting, including but not limited to, infant centers,

preschools, and school-age child care centers. Currently in the IP, child care centers are defined as licensed facilities including infant centers, pre-schools, and extended day care facilities, which regularly provide non-medical care, protection, and supervision of children in a non-residential setting.

In 2017, the San Mateo County Office of Education conducted a county-wide child care needs assessment that identified a significant shortage of child care services in the County. Permitting requirements and associated costs were identified by child care operators, child care planning organizations, and advocacy groups as barriers to expanding and establishing new child care centers. The County's proposed Child Care Facilities Ordinance amendment aims to address these issues by reducing the permitting requirements and costs for child care providers within the unincorporated areas of the County. The proposed amendment would: establish new permitting requirements for child care centers, where the LCP currently only contains permitting requirements for Large Family Day Care Homes<sup>2</sup> (Section 6401.2); ease restrictions for a child care center to locate within an existing building of similar use in terms of purpose, intensity, and parking needs (such as commercial and institutional buildings) or compatible use (such as single- and multiple-family residential); allow for expansion of such buildings according to environmental and locational criteria; and allow child care centers to operate with a ministerial permit when located: 1) within existing buildings, allowing for limited expansion, in areas zoned or designated by the General Plan for Commercial or Institutional, or Commercial/Residential Mixed Use land uses; 2) within converted single-family residences on parcels of conforming size which are zoned for Single-Family Residential Land uses within the coastal zone that must be 10,000 square feet or larger; and 3) within existing or expanded institutional buildings or public facilities as defined by the amendment.

Under the County's existing regulations, a use permit and CDP are required for most child care uses (pursuant to the regulations for each zoning district and Section 6161(k)1 of the IP). The amendment would also create an amnesty program for existing, unpermitted child care centers that have been in continuous operation at a specified location for a minimum of 3 years prior to the effective date of the ordinance, as confirmed by State license documentation, and it would provide developers a floor area ratio (FAR) bonus and a parking waiver as incentives to incorporate a child care center as a part of an employment center (those employing 50 or more employees and meeting additional criteria) or transit-oriented development (TOD) located within 1/4-mile radius of a transit center, as defined by the ordinance.

In terms of ministerial permits, if a child care facility meets the County's established CDP exemption criteria<sup>3</sup> (which are consistent with the Coastal Act and the Commission's regulations (in CCR Sections 13250 and 13253)), it could be granted such a ministerial permit; however, the amendments establish that if the creation of the child care facility does not meet exemption criteria a Use Permit and CDP would be

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<sup>2</sup> Large Family Day Care Homes (referred to as Large Family Child Care Homes in the Ordinance) are State-licensed, residence-based care facilities for up to 14 children.

<sup>3</sup> IP Section 6328.5 (Exemptions) and Categorical Exclusion Order E-81-1 (refer to substantive file documents).



required. Consistent with the exemption criteria, building expansion for child care centers within a scenic corridor or within the Coastal Commission appeals jurisdiction, including areas within 300 feet of a beach or within 100 feet of a creek or wetland, are restricted to expansion of less than 10% in existing floor area and no additional stories/lofts. Any proposed expansion not fitting these criteria would require a use permit and CDP. Any child care use proposing the following is not eligible for a ministerial permit in the proposed amendment and would require a Use Permit and CDP: conversion of a visitor-serving commercial use to a child care center, locating a child care center within a sensitive habitat or buffer zone, any child care center not meeting parking requirements, and any child care center that involves intensification of use in a flood hazard zone. Finally, per the County's proposed amendments, a conversion of a single-family residential use to a child care center could be authorized solely by a ministerial permit without a CDP, as the County reasons such a conversion does not constitute an intensification of use of land, in other words does not constitute development.

Please see **Exhibit 1** for the proposed IP amendment text.

## **B. Evaluation of Proposed IP Amendment**

### **1. Standard of Review**

The proposed LCP amendment affects the Implementation Plan of the San Mateo County LCP only. For the proposed IP changes, the standard of review is whether the IP, as amended, would be in conformance with, and adequate to carry out, the provisions of the LUP.

### **2. *Applicable Land Use Plan Provisions***

San Mateo County's certified LUP requires that new development be located in areas with adequate public services able to accommodate it and where it will not have significant adverse impacts on coastal resources. It also requires that new development be concentrated in urban areas and rural service centers in order to discourage urban sprawl, minimize energy consumption and vehicles miles traveled. These policies include:

#### ***LUP Policy 1.18. Location of New Development***

*a. Direct new development to existing urban areas and rural service centers in order to: (1) discourage urban sprawl, (2) maximize the efficiency of public facilities, services, and utilities, (3) minimize energy consumption, (4) encourage the orderly formation and development of local governmental agencies, (5) protect and enhance the natural environment, and (6) revitalize existing developed areas.*

*b. Concentrate new development in urban areas and rural service centers by requiring the "infilling" of existing residential subdivisions and commercial areas.*

*c. Allow some future growth to develop at relatively high densities for affordable housing in areas where public facilities and services are or will be adequate and where coastal resources will not be endangered.*

San Mateo County's certified LUP also has specific policy directives requiring protection for coastal resources, including for environmentally sensitive habitat areas (ESHAs), scenic and visual qualities, and minimization of the potential for adverse impacts from hazards on new development. These provisions include:

***LUP Policy 7.3. Protection of Sensitive Habitats.*** (a) *Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas. (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

***LUP Policy 8.6. Streams, Wetlands and Estuaries.*** (a) *Set back development from the edge of streams and other natural waterways a sufficient distance to preserve the visual character of the waterway. (b) Prohibit structural development which will adversely affect the visual quality of perennial streams and associated riparian habitat, except for those permitted by Sensitive Habitats Component Policies. (c) Retain the open natural visual appearance of estuaries and their surrounding beaches. (d) Retain wetlands intact except for public accessways designed to respect the visual and ecological fragility of the area and adjacent land, in accordance with the Sensitive Habitats Component policies.*

***LUP Policy 8.5.a. Location of Development. On rural lands and urban parcels larger than 20,000 sq. ft.*** *Require that new development be located on a portion of a parcel where the development: (1) is least visible from State and County Scenic Roads; (2) is least likely to significantly impact views from public viewpoints; (3) and is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which, on balance, most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5. Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches. This provision does not apply to enlargement of existing structures, provided that the size of the structure after enlargement does not exceed 150% of the pre-existing floor area, or 2,000 sq. ft., whichever is greater. This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.*

### **Consistency Analysis**

The San Mateo County LCP requires that allowable uses in zones meet all the development standards set out in the LUP, comply with all other policies in the LUP, and prohibits development that would have significant impacts on sensitive habitat areas. The LCP also contains policies that define when development is exempt from the requirement to obtain a CDP. As discussed above, the proposed IP amendment would encourage the provision of child care centers at appropriate sites by creating a

ministerial permit process that does not require a CDP for many types of child care facilities (either child care centers or large or small family day cares). In most cases, the proposed IP amendment is consistent with LCP CDP exemption criteria. Consistent with the exemption criteria, building expansion for child care centers within a scenic corridor or within the Coastal Commission's appeals jurisdiction, including areas within 300 feet of a beach or within 100 feet of a creek or wetland, would be limited to expansion of less than 10% in existing floor area and would not be allowed to add additional stories/lofts. Such limited expansion, if fit those criteria, would still qualify for a ministerial permit.

The proposed amendment includes additional exemption criteria required for ministerial permit approval of child care centers including: parking requirements and child care centers must be located within a converted single-family residence in a residential zoning district on properties 10,000 sq. ft. or larger (which minimizes impacts to public parking access to the coast by assuring parking is accommodated onsite as required by LUP Policy 8.5). Similarly, conversion of an existing institutional, commercial (excluding visitor-serving commercial use), or public facility building to a child care center may be approved ministerially and without a CDP, provided identified criteria consistent with the LCP's coastal development exemption criteria are satisfied. This encourages child care centers to be located within existing commercial areas which helps concentrate development in urban areas and rural service centers, and reduces urban sprawl, consistent with LUP Policy 1.18.

New construction, replacement, or reconstruction of a building to accommodate a child care center would require a CDP to ensure coastal resource protections, including that proof of adequate water and sewer services are available to serve the new development would be required. Furthermore, the proposed amendment requires child care centers to be located outside of sensitive habitats and required buffer zones to be eligible for a ministerial permit. If a child care center is proposed in a sensitive habitat or buffer zone, a Use Permit and CDP would be required. The amendment does not eliminate, reduce, or modify any of the definitions, designations, or standards incorporated in the Sensitive Habitats Component (Section 7) of the County's IP (which defines sensitive habitats, establishes standards for protection, and defines permitted uses) and any prohibition or restriction on development established in this section continues to apply.

Child care centers that do not meet the ministerial permit criteria of the proposed amendment require a Use Permit and CDP, subject to compliance with applicable policies of the LCP in order to ensure that new development is sited and designed to prevent significant adverse impacts on sensitive habitat areas as required by LUP Policies 7.3, 8.5 and 8.6. To further ensure consistency with LUP policies that maximize the efficiency of public facilities, services, and utilities and ensure that adequate infrastructure is available to serve the facility, all child care centers must obtain building permits for construction assuring consistency with LUP policies that require public services to be adequately available as required by LUP Policy 1.18. Therefore, the proposed LCPA is generally consistent with LCP and Coastal Act definitions of development that is exempt from the requirement to obtain a CDP.

However, as proposed, the amendment would allow the complete conversion of a single-family residence in a residential zoning district to a child care center without a

CDP, and the public noticing and hearing process that comes along with that permit process. The County asserts, and the ordinance states, that the conversion of a single-family residence to a child care center is not an “intensification of use” that qualifies as development requiring a CDP. However, converting a single-family residence into a “child care center” (or any other type of complete conversion to a child care use) would constitute a change in use, and an intensification of use of land, because a child care center is likely to have more people on site than a single-family home, requiring additional parking and potentially more impacts on coastal resources. Using a home as a place to look after children is not unlike a ‘normal’ residential use, as recognized by the legislature in adopting the most recent child care regulations at the State level. However, when only the child care use itself occupies that same space, with hours of operation and the trappings of commercial use applied in a way that is now disconnected from ‘normal’ residential use patterns (e.g., open for business from 6am to 6pm, but employees essentially ‘clock out’ after that time until the following morning, etc.), the similarities to residential use start to diminish. The result is a change from residential use to something else, and often a change in the intensity of use as well, which constitutes development under the Coastal Act for which a CDP is required. Thus, it is important to make that distinction in the LCP. To be clear, it is not that the change is prohibited or otherwise not allowed. On the contrary, the coastal permit review process allows a ‘check’ of sorts to ensure that such development is LCP consistent, including in terms of priorities of use and other sorts of coastal resource protections. Therefore, **Suggested Modifications 1 and 2** are necessary to clarify that a conversion of a single-family residence to a child care center requires a CDP.

On the other hand, as opposed to new child care centers, when and if a new small or large family day care use is proposed within existing residential or commercial zones, by definition such uses would be incidental to an existing residential use and would not involve conversion of a residential use to a different use (such as commercial). In such instances, the existing residence in which the new family daycare is proposed likely would have been permitted as an allowable use in the zone through a CDP, which assures that existing residence complies with relevant resource protection standards in the LCP, including policies that protect wetlands, sensitive habitat areas, and coastal bluffs. In addition, a new small or large family daycare within an existing residence is unlikely to result in an intensification of use of the residence because it is considered a residential use and allowed within any residence under State Law SB 234. Therefore, the ordinance appropriately does not require a CDP for new small or large day care uses within certain existing permitted uses. However, when a complete conversion of a residence to a child care center is proposed, **Suggested Modifications 1 and 2** are necessary to ensure that this change in use and change in intensity of use accounts for the necessary resource protections by requiring a CDP for such a change, assuring consistency with the LUP provisions that require protection of coastal resources such as environmentally sensitive habitat areas (ESHAs), scenic and visual qualities, and minimization of the potential for adverse impacts from hazards on new development.

Lastly, to incentivize the creation of new child care centers in the unincorporated County, the Ordinance would create two new incentive programs and would reference incentives provided by the State, including the State density bonus law provisions. To receive incentives, the amended IP would require decision-making authority for the child

care center to determine whether the tests are adequately met and, if so, would grant the applicable bonus, concession, or incentive at the time the permit is approved. In 2020, the County submitted a request to amend their certified LCP with relevant updates that flow from State density bonus law provisions. The County and Commission staff coordinated on ways to make that LCP amendment more Coastal Act consistent, at which time the County decided to withdraw the LCP amendment request to bring an updated ordinance back through the local process. It is Commission staff's understanding that the State density bonus law provisions LCP amendment is a low priority item at the moment for County staff and will be resubmitted at a later date. Therefore, the current State density bonus law provisions have not yet been incorporated into the County's certified LCP. As such, the density bonus incentives proposed as part of this LCP amendment should not apply in the coastal zone until they are certified, and provided the certified version is allowed to cover child care centers as Coastal Act consistent. Therefore, **Suggested Modification 3** is required in order to clarify that State density bonus law provisions will only apply outside of the coastal zone unless and until the provisions are certified as a par to the LCP.

In conclusion, the proposed amendment if modified as suggested will adequately regulate child care uses in the relevant zoning districts of the County without detriment to the coastal resources that require protection in the County's LCP. Furthermore, impacts from specific projects emanating from the expanded allowable uses in these zones will be addressed during the County's CDP review process, ensuring consistency with all applicable LCP provisions. The amendment with **Suggested Modifications** thus strikes an appropriate balance that will encourage and streamline child care centers in the coastal zone while protecting coastal resources, consistent with the County's certified LUP. Accordingly, the proposed IP amendment as modified is consistent with and adequate to carry out the LUP.

#### **D. California Environmental Quality Act (CEQA)**

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the County prepared an Initial Study and Negative Declaration for its Child Care Facilities Ordinance, consistent with the requirements of CEQA, and determined that the proposed zoning text amendments would not have a significant effect on the environment because all potential impacts of the project would be below established CEQA thresholds of significance.

The Coastal Commission is not exempt from CEQA with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, has addressed all

comments received, and has concluded that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein. Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. If modified as recommended by Commission staff, the proposed LCP amendment as modified will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

### 3. APPENDICES

#### **A. Substantive File Documents<sup>4</sup>**

- San Mateo County Adopted Ordinance No. 4844
- San Mateo County Local Coastal Program Consistency Analysis
- IP Section 6328.5 (Exemptions)
- Categorical Exclusion Order No. E-81-1

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<sup>4</sup> These documents are available for review from the Commission's North Central Coast District office.