

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
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Th9d



**Prepared October 26, 2006 (for November 16, 2006 hearing)**

**To:** Commissioners and Interested Persons

**From:** Steve Monowitz, District Manager  
Mike Watson, Coastal Planner

**Subject: City of Pismo Beach LCP Major Amendment Number 2-06 (Secondary Dwelling Units)**  
Proposed major amendment to the City of Pismo Beach certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's November 16, 2006 meeting to take place at the Hyatt Regency Hotel, in Huntington Beach.

## Summary

The City of Pismo Beach is proposing to amend its Local Coastal Program (LCP) Implementation Plan (IP, also known as the LCP zoning ordinance) as it relates to Secondary Dwelling Units. The City proposes to revise the residential use standards for secondary units by establishing a minimum lot size and corresponding graduated sizing of secondary dwelling units. Additionally, the City proposes to require Planning Commission review and approval for all secondary units constructed on slopes exceeding 30%, and prohibit construction of second units above the intersection of Longview and Stratford in the Pismo Heights planning area. The amendment also specifies that only one secondary structure will be approved per lot and requires owner occupancy of either the primary or secondary unit. Finally, a correction to the findings regarding the parking requirement for secondary units is proposed. (Revised IP sections 17.006.0887, 17.117.C.4, 17.117.D, 17.117.D.1, 17.117.E.4, 17.117.H.1, 17.117.H.2 – 5, and 17.117.I.1 – 17.117.I.2.)

Staff has evaluated the proposed amendments to the secondary dwelling unit ordinance for conformance with the certified Land Use Plan, and **recommends approval only if the amendment is modified** to eliminate the proposed minimum lot size criteria. This modification is needed to bring the amendment into conformance with stated land use plan goals of providing affordable housing opportunities for low and moderate income residents and maintaining a range of housing and density types. The proposed restriction unnecessarily excludes more than a third of the total residentially zoned lots within the City on which second units could theoretically be constructed or be established and therefore is not adequate to carry out the intent of the certified land use plan. The development of secondary dwelling units on all parcels, regardless of size, must conform to the development standards and resource protection criteria of the LCP, making a blanket prohibition on second units for lots under 5,001 square feet unnecessary.

Aside from this issue, the changes proposed are straightforward and essentially in keeping with the current standards for secondary units. The amendment prohibits second units above the intersection of Longview and Stratford in the Pismo Heights planning area, and requires Planning Commission review and approval for all development on slopes greater than 30%. The City contends, and staff concurs, that these changes are necessary to ensure that all potential hazards, safety issues, and resource impacts on



California Coastal Commission

November 16, 2006 Meeting in Huntington Beach

Staff: Mike Watson Approved by:

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the steeply sloped planning area are adequately addressed. The City has also proposed second unit sizing criteria based on lot size to ensure the relationship of primary to secondary dwelling unit is maintained and a requirement for owner occupancy of either the primary or secondary dwelling unit to prevent opportunistic development of second units. The amendment contains a clarification that only one primary and one secondary unit is allowed on a single lot and that parking for the secondary unit must be provided in addition to any parking required for the primary residence. These elements of the amendment are consistent with, and adequate to carry out, the provisions of the certified LUP.

## Staff Report Contents

page

I. Staff Recommendation – Motions and Resolutions.....	2
II. Suggested Modifications.....	3
III. Findings and Declarations .....	4
A. Proposed LCP Amendment.....	4
B. Consistency Analysis.....	5
C. California Environmental Quality Act (CEQA) .....	9
IV. Exhibits	
Exhibit A: City Council Ordinance	
Exhibit B: Proposed LCP Amendment	

## I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make 2 motions in order to act on this recommendation.

### 1. Denial of Implementation Plan Major Amendment Number 2-06 as Submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (1 of 2).** I move that the Commission **reject** Major Amendment Number 2-06 to the City of Pismo Beach Local Coastal Program Implementation Plan as submitted.

**Resolution to Deny.** The Commission hereby **denies** certification of Major Amendment Number 2-06 to the City of Pismo Beach Local Coastal Program Implementation Plan as submitted by the City of Pismo Beach and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.



2. Approval of Implementation Plan Major Amendment Number 2-06 if Modified

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

**Motion (2 of 2).** I move that the Commission **certify** Major Amendment Number 2-06 to the City of Pismo Beach Local Coastal Program Implementation Plan if it is modified as suggested in this staff report.

**Resolution to Certify with Suggested Modifications.** The Commission hereby **certifies** Major Amendment Number 2-06 to the City of Pismo Beach Local Coastal Program Implementation Plan if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan 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 plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

## II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Pismo Beach accepts each of the suggested modifications within six months of Commission action (i.e., by May 15, 2007), by formal resolution of the City Council, the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

**1. Modify Proposed Changes to IP Section 17.117(H)**

2. **Lot Area.** The lot may be any size ~~must be at least 5,001 s.f. in area.~~

**2. Modify Proposed Changes to IP Section 17.117(H).**

5. **Unit Size.** The primary and secondary dwelling units together may not exceed the building area or lot coverage allowed for a single dwelling in the underlying zone. Within this maximum building envelope and building area, the maximum building area of a secondary dwelling unit, not including any garage, may not exceed 600 s.f. for lots ~~between 5,001 and~~ less than 10,000 s.f. in area, and 1,200 s.f. for lots 10,000 s.f. or larger in area.



### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Proposed LCP Amendment

##### 1. Description of Proposed LCP Amendment

The purpose of the proposed LCP amendment is to provide further specification regarding the development of secondary dwelling units in residential areas of the City of Pismo Beach. Secondary units are a residential type of land use and are currently regulated by the existing Implementation Plan. In large measure, the proposed amendment simply refines these existing regulations, however there are a couple of examples of where the regulations deviate significantly from the established standards for secondary units.

In particular, the proposed amendment to the certified Implementation Plan involves the establishment of a minimum lot size and corresponding graduated sizing of secondary dwelling units. Additionally, the City proposes to require Planning Commission review and approval for all secondary units constructed on slopes exceeding 30%, and prohibit construction of second units above the intersection of Longview and Stratford in the Pismo Heights planning area. The amendment also specifically requires owner occupancy of either the primary or secondary unit. Finally, the amendment contains a clarification that only one primary and one secondary unit is allowed on a single lot to preserve the general character of the residentially zoned neighborhoods. See exhibit A for the City Council ordinance and exhibit B for the proposed text of the LCP amendment.

##### 2. Effect of Proposed Amendment

More than one-third of all residentially zoned properties within the City of Pismo Beach will not conform to the minimum lot size criteria established by the amendment. Thus, the opportunities for the development of second units will be greatly diminished. This will be particularly noticeable in the Shell Beach planning area where a large segment of existing subdivided lots are less than 5,000 square feet. Secondary dwelling units up to 600 square feet in size will be permitted on lots between 5,001 square feet and up to 10,000 square feet. Secondary units up to 1,200 square feet in size will be allowed on lots greater than 10,000 square feet in size.

Applications for secondary dwelling units within the coastal zone will continue to be processed ministerially, with the exception of those properties exhibiting a slope of 30% or greater, which will require Planning Commission review and approval. Development on slopes greater than 30% is prohibited citywide except within the Pismo Heights planning area. Additionally, 50 residentially zoned lots in the Pismo Heights planning area will be excluded from the secondary dwelling unit ordinance. The changes are necessary to ensure that all potential public safety, hazards, and resource impacts are adequately addressed.

Finally, owners of property with secondary units will be required to live in either the primary or



secondary living quarters. Only one primary and one secondary dwelling unit will be allowed per lot. the occupancy requirement and clarifications on the number of ancillary units is needed simply to prevent speculative development of secondary units.

## B. Consistency Analysis

### 1. Standard of Review

The standard of review for proposed modifications to the City's IP is that they must be consistent with and adequate to carry out the policies of the Land Use Plan (LUP). In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. Implementation Plan (zoning) standards then typically further refine LUP policies to provide guidance on a parcel-by-parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified LUP.

### 2. LUP Consistency Requirement

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan. A primary principle of the LUP is to facilitate affordable housing for residents of all income levels. Additionally, the certified LUP protects visual and community character, promotes hazard avoidance, and requires demonstration of sewer and water capacity to serve proposed development. It also distinguishes between urban and rural development, and directs development to developed areas best able to accommodate it.

### 3. Consistency Analysis

The proposed amendment is narrowly focused on changes to the existing secondary dwelling unit ordinance. Most of the changes simply clarify the conditions under which second units may be authorized. However, the proposed amendment includes a new provision that prohibit development of second units on lots less than 5,001 square feet, which constitute nearly one-third of residentially zoned properties within the City.

#### Minimum Lot Size

The certified LCP currently promotes secondary dwelling units (i.e., granny units) on all residentially zoned lots of record. The proposed amendment establishes a minimum lot size criterion of 5,001 square feet for a secondary dwelling unit. The City maintains that this restriction is needed to reduce development intensity in the older neighborhoods where lot size is on average less than 5,000 square feet in size. The City is concerned that secondary units will introduce additional vehicles, persons, animals, and accompanying impacts such as noise, traffic, parking and safety problems, etc., in an area of the city that is incapable of handling it. As a result of the amendment, a significant number of lots in the older sections of Pismo Beach would immediately be ineligible for second units since they typically range between 3,600 and 5,000 square feet in size.



Currently there are 3,929 residentially zoned lots citywide. Of these, some 300 lots are located above Stratford and Longview in the Pismo Heights planning neighborhood that are proposed to be excluded due public safety and hazards concerns. Of the remaining 3,629 residentially zoned lots, only 2,259 (62%) are greater than 5,000 square feet in size. Thus, the effect of the proposed amendment would be to make 38% (1,370 lots) of all residentially zoned properties citywide ineligible for secondary dwelling units. However, a disproportionate number of the ineligible lots are located within the Shell Beach planning area. Staff estimates that 728 of a possible 841 properties within the planning area are less than 5,001 square feet in area and ineligible for a secondary dwelling unit. This amounts to roughly 87% of the properties within the planning area and 53% of the total ineligible lots citywide.

The City's certified LUP encourages the development of affordable housing opportunity for residents of low to moderate income levels. LUP principle P-16 states:

***LUP Principle P-16***

*It is the intent of the City of Pismo Beach to facilitate the provision of housing units affordable for sale and rent to residents and employees of all income levels...*

The LUP further directs the City to maintain a range of housing and density types to promote a variety of housing options. Policy H-1 states in relevant part:

***H-1 Range of Housing Types and Densities***

*The City shall maintain a range of density categories in the General Plan that will permit the development of a variety of housing types, including single family homes, condominiums, rental apartments, mobile homes and manufactured housing...*

Although not the standard of review, two of the primary purposes of the secondary dwelling unit ordinance itself is to provide opportunities for housing that would not otherwise be possible under the current density standards, as well as promoting housing type and income-level diversity within neighborhoods. Section 17.117 of the secondary dwelling unit ordinance states:

(A) ***Intent and Purpose.*** *These regulations are intended to:*

*1. Provide additional opportunities for developing housing that would otherwise not be possible under the current density standards.*

...

*5. Provide for greater occupational, household type, and income-level diversity within neighborhoods.*

As currently proposed, the amendment essentially precludes the development of secondary units within the Shell Beach planning area, which comprises roughly one-fifth of the city's entire housing stock. The amendment does not facilitate affordable housing but rather makes affordable options such as secondary dwelling units more scarce and therefore less affordable. The proposed amendment thereby reduces housing variety in the R-1 zoned Shell Beach neighborhood inconsistent with LUP Principle P-16 and



Policy H-1. This change is also inconsistent with the stated purpose of the secondary dwelling unit ordinance to provide greater opportunities for housing than currently possible under the existing density standards, as well as greater housing and income-level diversity within neighborhoods. Development of secondary dwelling units must still conform to the development standards of the underlying zoning district and all other applicable LCP provisions. Thus, the City's proposed minimum lot size criterion is unnecessary and cannot be found consistent with the LUP. As a result, the amendment can only be approved if modified to delete the minimum lot size criterion. See Modifications 1 and 2.

#### Size of Secondary Units

The proposed amendment specifies that secondary dwelling units up to 600 square feet in size may be constructed in all residentially zoned districts on lots of 5,001 – 10,000 square feet. For lots greater than 10,000 square feet, a secondary dwelling unit up to 1,200 square feet in size may be permitted. Existing zoning ordinance standards allow for secondary dwelling units of 1,200 square feet on lots of any size with slopes less than 30%.

The purpose of the proposed amendment is to address concerns that the development of a 1,200 square foot secondary dwelling unit on a lot smaller than 10,000 square feet would adversely impact the small beach town character of the community. For example, in portions of the Shell Beach neighborhood where the lot sizes are on average smaller than 5,000 square feet, the intensity of development is very high. The concern is that on some smaller lots, the second unit may look identical in size to the primary unit, giving the impression of a duplex. The City intends by limiting the size of secondary dwelling units to prevent creating a de-facto R-2 situation in R-1 zoned neighborhoods. Additionally, the City maintains that large secondary dwelling units will create additional traffic, pedestrian hazards, and storm water runoff problems in an area that may not be prepared to handle it.

The Land Use Plan encourages the preservation of the City's small California beach town ambiance, particularly in the downtown and Shell Beach neighborhoods. LUP Policy P-16 specifically states:

#### ***P-16 Historic Ambience***

*Pismo Beach contains the historic ambience of the small California beach town. This is particularly evident in downtown and Shell Beach. Although hard to define, the preservation of this ambience is important and the City shall encourage its preservation. This ambience provides a link with the past, creates a pleasant experience, and adds to community diversity.*

The certified LUP further requires the City to ensure that public facilities are available to adequately serve all new and existing development. Policy P-8 specifically states in relevant part:

#### ***P-8 Facilities Concurrent With Need***

*The City shall ensure that public facilities are available to adequately serve all new and existing development concurrently with new construction...*

The refined criteria for secondary units ameliorate concerns of inadequate infrastructure and loss of character by establishing a floor area maximum for the secondary unit based on the size of the



underlying lot. With the modification described above, a 600 square foot secondary unit may be permitted on lots less than 10,000 square feet in size; a 1,200 square foot second unit may be permitted on lots greater than 10,000 square feet. These size limits provide appropriate standards to ensure that the development of secondary dwelling units are consistent with LUP standards protecting community character, as well as with residential zoning standards. Please see Modification 2.

#### Hearing Requirements / Prohibitions Above Stratford and Longview

The proposed amendment establishes a requirement for Planning Commission review and approval for all development of second units on steep slopes (i.e., 30%) and to prohibit second units altogether above the intersection of Stratford and Longview in the Pismo Heights planning area. This prohibition is in keeping with Land Use Plan policy CO-10, which prohibits development on slopes greater than 30% except where such development can be accommodated in accordance with the resource protection and hazard policies of the LCP.

#### ***LUP Policy CO-10: Slopes over 30% -Permanent Open Space***

*No buildings or grading shall be permitted on existing natural slopes over 30%. The areas over 30% shall be retained as permanent public or private open space. Building and grading on existing legal lots of record in the Pismo Heights Planning Area that exceed the 30% slope limitation may be approved provided that requests for development are accompanied by engineered plans ensuring structural stability over the life of the residence and the development can be accommodated in accordance with the resource and hazard protection standards of the certified LCP (including but not limited to the Safety (S-10 – S-15), Conservation (CO-11 – CO-14, CO-31), and Land Use (LU-P-1 – LU-P-10) elements/policies of the General Plan/Local Coastal Plan and the Hazard Protection and View Consideration Overlay Standards of the Zoning Ordinance (Sections 17.078 and 17.096)). Grading shall be limited to the minimum amount necessary to construct the least environmentally damaging alternative for building sites with a slope in excess of 30%. Development shall be directed to the least-steep portions of the site, taking into account other resource constraints.*

...

The Pismo Heights planning area above Stratford Street can be characterized as a fairly steep with only one access road into and out of the planning area. It is an older neighborhood developed at urban densities. The coastal zone boundary bisects the planning area roughly 3 blocks above Stratford Street and there are potentially 50 properties within the coastal zone above Stratford Street. Due to the steep topography, limited access, and sensitivity of the area, the City believes that a prohibition is necessary to ensure that all potential hazards and resource impacts are adequately addressed. Secondly, the proposed amendment will not altogether preclude development of secondary dwelling units on steep slopes (there are several blocks beneath Stratford on the lower Pismo Heights planning area), but will ensure via Planning Commission review that it will proceed in a manner that is necessary and adequate to protect development from hazards and to maintain erosion control. Accordingly, these provisions are consistent with and adequate to carry out the certified LUP.





### Parking

The amendment includes a clarification that any parking required as part of the secondary unit must be provided in addition to the parking requirements for the primary residence. In addition, the amendment includes a correction to the required findings for approval of a secondary unit. The City explains that in the original draft regulations, a second parking space was contemplated for second units larger than 600 square feet in area, and an associated finding required. As adopted however, only one parking space per unit is required, regardless of size. Thus, the amendment proposes to eliminate the requirement that approval of a secondary dwelling unit be accompanied by a finding that there are two parking spaces for second units over 600 square feet. The City's existing parking standards require the primary residence to have two parking spaces and the secondary unit, one off-street parking space. As proposed, there would be no change to the secondary dwelling unit parking requirement. Maintaining the existing requirement that an off-street parking space must be provided for each secondary unit should prevent the establishment of such units from consuming on-street parking that serves coastal access and recreation. The City can revisit the secondary dwelling unit ordinance parking requirements in the future should evidence of competing demand for parking between residents and beach visitors necessitate such a review.

### Clarifications/Other

In addition to those issues detailed above, there are instances where the language of the proposed amendment needs to be clarified to ensure its clear implementation consistent with the LUP. For example, the text of the proposed amendment clarifies that only one primary and one secondary unit may be permitted per residential lot. This may seem obvious, but because the two units are together defined as a single dwelling unit under the ordinance, the City felt it necessary to specifically note that only one primary and one secondary unit could be authorized per lot.

Additionally, in order to prevent the opportunistic development of secondary dwelling units, the amendment includes a provision requiring owner occupancy of either the primary or secondary unit. Owner occupancy reinforces the primary intent of the secondary units by providing additional opportunities for housing while ensuring the units are properly maintained and assuring adequate oversight and control over tenants. These are minor changes that do not affect any kinds, locations or intensities of residential use and are consistent with the provisions of the certified LUP protecting community character.

### Conclusion

The proposed amendments to the secondary dwelling unit ordinance are consistent with and adequate to carry out the certified LUP except for the restriction against second units on lots less than 5,001 square feet, which is unnecessary and limits opportunities for affordable housing, in conflict with LUP provisions. Therefore, the amendment can only be approved if modified to eliminate this prohibition.

## C. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been



certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City in this case prepared a negative declaration for the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



**ORDINANCE NO. 2006-06**

**AN ORDINANCE OF THE PISMO BEACH CITY COUNCIL ADOPTING AMENDMENTS  
TO THE 1983 AND 1998 ZONING CODES AND LOCAL COASTAL PROGRAM,  
ADDRESSING SECONDARY DWELLING UNITS  
CITYWIDE RESIDENTIAL ZONES**

**WHEREAS**, the City of Pismo Beach ("Applicant") initiated ordinance amendments to the 1983 and 1998 zoning code; and

**WHEREAS**, the Planning Commission held a duly-noticed public hearing on October 11, 2005, at which all interested persons were given the opportunity to be heard; and

**WHEREAS**, the Planning Commission found that the environmental initial study prepared for the original adoption of the secondary unit regulations is adequate and that no further study is needed;

**WHEREAS**, the City Council held duly noticed public hearings on November 15, 2005 and on May 16, 2006, at which all interested persons were given the opportunity to be heard;

**NOW, THEREFORE, BE IT ORDAINED** by the Pismo Beach City Council as follows:

**SECTION 1. FINDINGS**

The City Council makes the following findings:

1. The project consists of amendments to the Zoning Ordinance and Local Coastal Program that change the regulations on secondary dwelling units.
2. An environmental initial study was completed for the original project, amendments to the 1983 and 1998 zoning code to allow secondary dwelling units, and that initial study addresses the same issues that are included in the present amendments, and the City Council therefore finds that no further study is needed.
3. The amendments are consistent with the Coastal Act.

**ACTION**

The City Council does hereby:

1. Certify that the amendments to the Local Coastal Program are intended to be carried out in a manner fully in compliance with Division 20 of the Public Resources Code, otherwise known as the Coastal Act.
2. Adopt the amendments attached as **Exhibit A**.
3. Direct staff to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal

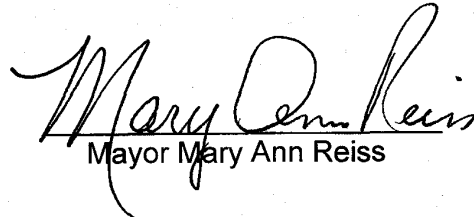
**Ordinance # 2006-06**

**Exhibit A – pg. 1 of 2**  
City Ordinance

Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

**UPON MOTION** of Councilmember Rabenaldt, seconded by Councilmember Natoli, the foregoing ordinance is hereby introduced at a Regular Meeting of the City Council held this 16<sup>th</sup> day of May, 2006, by the following roll call vote, to wit:

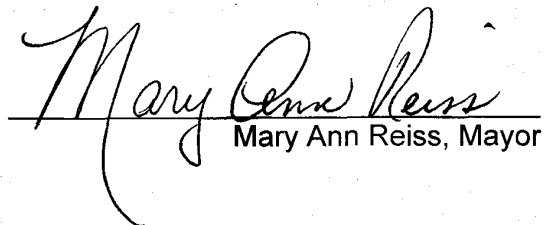
AYES: Councilmembers: Rabenaldt, Natoli, and Gonzalez-Gee  
NOES: Mayor Reiss  
ABSTAIN: Councilmember Higginbotham  
ABSENT: None

  
Mayor Mary Ann Reiss

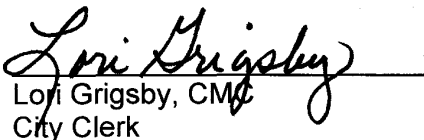
ATTEST:   
Lori Grigsby, CMC, City Clerk

PASSED AND ADOPTED at a regular meeting of the City Council held this 6<sup>th</sup> day of June 2006, on motion of Councilmember Rabenaldt seconded by Councilmember Natoli on the following vote, to wit:

AYES: 4 Councilmembers: Rabenaldt, Natoli, Gonzales-Gee, Reiss  
NOES: 0 Councilmembers:  
ABSENT: 1 Councilmembers:  
ABSTAIN: 0 Councilmembers:

  
Mary Ann Reiss, Mayor

ATTEST:

  
Lori Grigsby, CMC  
City Clerk

APPROVE AS TO FORM:

  
David Fleishman, City Attorney

Ordinance # 2006-06

Exhibit A – pg. 2 of 2  
City Ordinance

## Attached: Exhibit A – Text amendments

### Notes:

- footnotes are not part of the amendments

### Proposed changes are shown by:

Deletions are shown by ~~stricken text~~.

Additions are shown by underlined italics.

## 1983 Zoning Code Amendments

### Section 17.006 Definitions

**17.006.0847 Primary dwelling unit:** A single dwelling on a lot that contains no other dwellings, other than a secondary dwelling unit as defined in this section.

**17.006.0887 Secondary dwelling unit:** A subordinate dwelling unit added to, or created within, or detached from a single-family dwelling (primary dwelling unit), but on the same parcel, that provides basic requirements for independent living, sleeping, eating, cooking, and sanitation.

**17.006.0953 Transient lodging or rental:** any structure, or any portion of any structure, that is occupied or intended or designed for occupancy by persons for periods of fewer than 30 days or one month, whichever is shorter.

### Section 17.117 Secondary Dwelling Units

**A. Intent and purpose.** These regulations are intended to:

1. Provide additional opportunities for developing housing that would otherwise not be possible under the current density standards;
2. Provide a means for purchasers of homes to assist in making payments on home loans;
3. Provide security for homeowners who fear criminal intrusion and personal accidents while living alone;
4. Provide separate but close living quarters for homeowners' relatives who are in need;
5. Provide for greater occupational, household type, and income-level diversity within neighborhoods;
6. Make more efficient use of existing infrastructure.

Ordinance # 2006-06

Exhibit B – pg. 1 of 5  
Proposed LCP Amendment

7. Provide an opportunity for property owners to create housing that is affordable to lower- and moderate-income renters.

**B. Consistency with adopted plans.** Secondary dwelling units developed in accordance with this section are a residential use that is consistent with the existing general plan and zoning designation for the lot.

**C. Findings.**

1. Secondary dwelling units designed in accordance with this section are consistent with the certified Local Coastal Program.
2. Secondary dwelling units designed in accordance with this section require no discretionary approval, unless as provided for herein.
3. Secondary dwelling units designed in accordance with this section will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
4. ~~Secondary dwelling units larger than 600 s.f. in area are likely to house more than one adult resident who owns a vehicle. Therefore, additional parking is needed for units that exceed 600 s.f. in area.<sup>1</sup>~~
4. Secondary dwelling units located above the intersection of Longview and Stratford in the Pismo Heights Planning Area may increase the number of families that are in danger in emergency situations, because of the lack of secondary access in this area.<sup>2</sup>

**D. Applicability.** Secondary dwelling units are permitted in R-1, R-2, R-3, R-R, P-R zones, with the exception noted below<sup>2</sup>, on lots or parcels where there is only one existing or planned residence, and where the required number of parking spaces for the primary residence is provided. The requirements in this section apply to new secondary dwelling units and to additions to existing secondary dwelling units. The total number of residences permitted on one lot in accordance with these regulations is two: one primary and one secondary unit, regardless of the zone.

1. Exception. Secondary dwelling units are not permitted in the R-1 zone above the intersection of Longview and Stratford, in the Pismo Heights Planning Area.<sup>2</sup>

**E. Permit required.** Secondary dwelling units are permitted with approval of either a Zoning Clearance, consistent with Section 17.121.100, or a Coastal Development Permit, consistent with Section 17.124.030 and as otherwise provided in this section.

1. **Projects outside Coastal Zone.** A Zoning Clearance is required. Action on the permit is final.

<sup>1</sup> This finding was added when the ordinance was written to require two parking spaces for larger units. That requirement was eliminated so the finding should be eliminated also.

<sup>2</sup> Not recommended by PC

Ordinance # 2006-06

2. **Projects in Coastal Appeal Zone.** A Coastal Development Permit is required. The public hearing is hereby waived, in accordance with Section 17.124.100, unless the second unit is a part of a larger project that requires a public hearing or if a variance is requested. Notice shall be provided in accordance with Section 17.125.090. Action on project is final, unless appealed to the Coastal Commission within ten days of the Commission's receipt of the Notice of Final Action.

3. **Projects in Coastal Zone, non-appealable.** A Coastal Development Permit is required. Notice is required, in accordance with Section 17.124.090. Action on the Coastal Development Permit is final.

4. **Projects on hillsides.** Development of a secondary dwelling unit on a slope that exceeds 30% requires approval of a Coastal Development Permit by the Planning Commission.

**F. Density.** For purposes of calculating the density on a lot, the primary and secondary dwelling units together shall be considered to be one density unit. Secondary dwelling units do not exceed the allowable density for the lot upon which the unit is located. Only one primary and one secondary unit are permitted per legal lot or parcel.

**G. State Law Applicability.** The provisions of this section shall be subordinate to and superseded by the controlling provisions of any applicable state law or laws.

**H. Development standards.** The following standards are intended to ensure that second dwelling units do not adversely affect either adjacent residential parcels or the surrounding neighborhood, and are developed in a manner that protects the integrity of the residential district while providing for needed housing opportunities.

1. **Occupancy.** Neither unit may be used as a transient rental (see definition, Section 17.006.0953 ). Either the primary or the secondary unit must be occupied by the property owner.<sup>3</sup>

A deed restriction shall be recorded against the title of the property that contains the second dwelling unit, prior to issuance of a building permit. Such deed restriction shall stipulate that the second dwelling unit cannot be sold separately or used as a transient rental ~~as long as a transient rental is prohibited by code~~<sup>4</sup>; and that one of the units must be occupied by the property owner.

2. **Lot area.** ~~The lot may be any size.~~ must be at least 5,001 s.f. in area.

<sup>3</sup> To limit the number of "opportunistic" developments of second units.

<sup>4</sup> This additional language is redundant and may be confusing. The ordinance specifically states that a primary or second unit may not be used as a transient rental; if a vacation rental ordinance is adopted, then these words may be changed at that time.

**Ordinance # 2006-06**

3. **Lot coverage, yards, height, maximum building area.** All new development, ~~when combined with the existing development,~~<sup>5</sup> shall conform to the development standards of the underlying zone.
  4. **Parking.** One additional parking space is required for the secondary unit, in addition to any spaces required for the primary unit. Parking spaces may be covered or uncovered, must be paved, and must be at least 9' wide and 18' deep. Spaces may be located within a required side or rear setback (see Sections ~~17.102.020, 17.102.030 and, 17.102.040~~) ~~but if located in the front yard additional paving shall be porous, permitting planting, or decorative or in a driveway.~~ The space required for the secondary unit may be in tandem with any parking spaces required for the primary residence.
  5. **Unit size.** The primary and secondary dwelling units together may not exceed the building area or lot coverage allowed for a single dwelling in the underlying zone. Within this maximum building envelope and building area, the maximum building area of a secondary dwelling unit, not including any garage, may not exceed 600 s.f. for lots between 5,001 and 10,000 s.f. in area, and 1200 s.f. for lots 10,000 s.f. or larger in area.
  6. **Services.** The primary and secondary units may be served from the same gas, electricity, and water lines, at the discretion of the property owner. No development shall be approved that would exceed the capacity of the municipal utility systems. Specifically, all applications received for secondary dwelling units shall be accompanied with evidence provided by the municipal utility provider that there are adequate services/capacity to serve the proposed development.
  7. **Water conservation.** All plumbing fixtures in both the primary and the secondary dwelling units must meet current Title 24 requirements for water conservation.
  8. **Consistency with codes.** New development shall comply with all local, state, or federal regulations that apply to the property, including the applicable requirements of the General Plan/Local Coastal Plan and certified zoning ordinance.
- I. **Acceptance of existing secondary dwelling units.**
1. **Exemption.** ~~Existing s~~Secondary dwelling units existing on May 12, 2005 that meet requirements of the Uniform Housing Code, as determined by the Building Official, on lots that include the required number of parking spaces for the primary dwelling unit, are exempt from the parking and unit size requirements of this section. All new development or modification of existing secondary units shall conform to the development standards of the underlying zone and all applicable requirements of the General Plan/Local Coastal Plan and certified zoning ordinance.

<sup>5</sup> This line (added by the coastal commission) appears to allow second units only on lots that meet all development standards or that are rebuilt to meet all standards. This addition by the Coastal Commission severely restricts the ability of property owners to build these units, which does not appear to be consistent with the intent.



2. **Acceptance Certificate required.** To obtain an Acceptance Certificate, owners of units existing at the time of adoption of this ordinance on May 12, 2005 must file an application with the Community Development Department for acceptance of the unit by June 30, 2007.

~~a. **Within one year of adoption.** An application for a certificate filed within one year of adoption of this ordinance must include a site and floor plan, documentation of ownership, and a fee as established by City Council resolution.~~

~~b. **After one year, but within two years of adoption.** An application for a certificate filed within two years of adoption of this ordinance, but filed more than one year after adoption, must include a site and floor plan, documentation of ownership, additional materials as required to establish the approximate date the unit was built, and a fee as established by City Council resolution.~~

Upon receipt of the application, the building inspector will schedule an inspection. If the unit meets basic health and safety standards as identified in the Uniform Housing Code, an Acceptance Certificate will be issued and the address of the unit will be entered into the City's database, indicating that the secondary unit is legal.

**J. Fire sprinkler requirements.** Primary and secondary dwelling units will not be required to include fire sprinklers except when the units are in a building that is over 4,000 s.f. in area, three stories tall, or over 35' in height.

**K. Exceptions.** Secondary Dwelling Units that do not meet all of the above standards may be allowed, subject to discretionary approval of a Development or Coastal Development Permit by the Planning Commission at a public hearing preceded by proper notification pursuant to section 17.124.90 and 17.124.100. To approve a secondary dwelling unit with exceptions, the Planning Commission must make all of the following findings:

1. The project meets the intent of State law and of the secondary dwelling unit regulations.
2. The exception is reasonably necessary for the development of a primary and secondary unit on the site.
3. The project will be compatible with the neighborhood.

**L. Illegal secondary dwelling units.** The establishment of a secondary dwelling unit without a Zoning Clearance, Coastal Development Permit, or Acceptance Certificate is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.



**ORDINANCE NO. 2006-06**

**AN ORDINANCE OF THE PISMO BEACH CITY COUNCIL ADOPTING AMENDMENTS  
TO THE 1983 AND 1998 ZONING CODES AND LOCAL COASTAL PROGRAM,  
ADDRESSING SECONDARY DWELLING UNITS  
CITYWIDE RESIDENTIAL ZONES**

**WHEREAS**, the City of Pismo Beach ("Applicant") initiated ordinance amendments to the 1983 and 1998 zoning code; and

**WHEREAS**, the Planning Commission held a duly-noticed public hearing on October 11, 2005, at which all interested persons were given the opportunity to be heard; and

**WHEREAS**, the Planning Commission found that the environmental initial study prepared for the original adoption of the secondary unit regulations is adequate and that no further study is needed;

**WHEREAS**, the City Council held duly noticed public hearings on November 15, 2005 and on May 16, 2006, at which all interested persons were given the opportunity to be heard;

**NOW, THEREFORE, BE IT ORDAINED** by the Pismo Beach City Council as follows:

**SECTION 1. FINDINGS**

The City Council makes the following findings:

1. The project consists of amendments to the Zoning Ordinance and Local Coastal Program that change the regulations on secondary dwelling units.
2. An environmental initial study was completed for the original project, amendments to the 1983 and 1998 zoning code to allow secondary dwelling units, and that initial study addresses the same issues that are included in the present amendments, and the City Council therefore finds that no further study is needed.
3. The amendments are consistent with the Coastal Act.

**ACTION**

The City Council does hereby:

1. Certify that the amendments to the Local Coastal Program are intended to be carried out in a manner fully in compliance with Division 20 of the Public Resources Code, otherwise known as the Coastal Act.
2. Adopt the amendments attached as **Exhibit A**.
3. Direct staff to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal

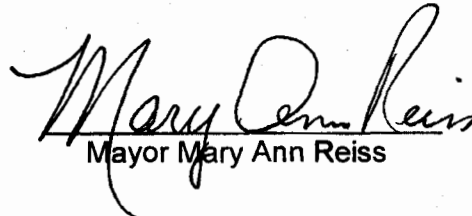
Ordinance # 2006-06

**Exhibit A – pg. 1 of 2**  
City Ordinance

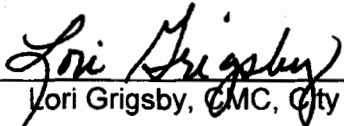
Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

**UPON MOTION** of Councilmember Rabenaldt, seconded by Councilmember Natoli, the foregoing ordinance is hereby introduced at a Regular Meeting of the City Council held this 16<sup>th</sup> day of May, 2006, by the following roll call vote, to wit:

AYES: Councilmembers: Rabenaldt, Natoli, and Gonzalez-Gee  
NOES: Mayor Reiss  
ABSTAIN: Councilmember Higginbotham  
ABSENT: None

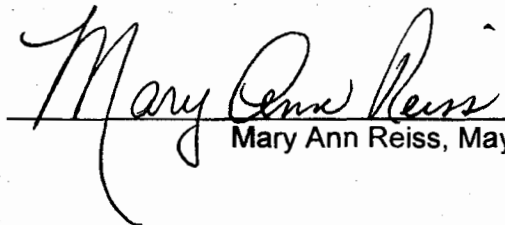
  
Mayor Mary Ann Reiss

ATTEST:

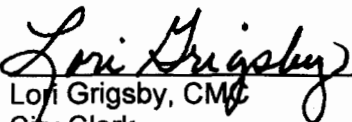
  
Lori Grigsby, CMC, City Clerk

PASSED AND ADOPTED at a regular meeting of the City Council held this 6<sup>th</sup> day of June 2006, on motion of Councilmember Rabenaldt seconded by Councilmember Natoli on the following vote, to wit:

AYES: 4 Councilmembers: Rabenaldt, Natoli, Gonzales-Gee, Reiss  
NOES: 0 Councilmembers:  
ABSENT: 1 Councilmembers:  
ABSTAIN: 0 Councilmembers:

  
Mary Ann Reiss, Mayor

ATTEST:

  
Lori Grigsby, CMC  
City Clerk

APPROVE AS TO FORM:

  
David Fleishman, City Attorney

Ordinance # 2006-06

Exhibit A – pg. 2 of 2  
City Ordinance

## **Attached: Exhibit A – Text amendments**

### **Notes:**

- footnotes are not part of the amendments

### **Proposed changes are shown by:**

Deletions are shown by ~~stricken text~~.

Additions are shown by underlined italics.

## **1983 Zoning Code Amendments**

### **Section 17.006 Definitions**

**17.006.0847 Primary dwelling unit:** A single dwelling on a lot that contains no other dwellings, other than a secondary dwelling unit as defined in this section.

**17.006.0887 Secondary dwelling unit:** A subordinate dwelling unit added to, or created within, or detached from a single-family dwelling (primary dwelling unit), but on the same parcel, that provides basic requirements for independent living, sleeping, eating, cooking, and sanitation.

**17.006.0953 Transient lodging or rental:** any structure, or any portion of any structure, that is occupied or intended or designed for occupancy by persons for periods of fewer than 30 days or one month, whichever is shorter.

### **Section 17.117 Secondary Dwelling Units**

**A. Intent and purpose.** These regulations are intended to:

1. Provide additional opportunities for developing housing that would otherwise not be possible under the current density standards;
2. Provide a means for purchasers of homes to assist in making payments on home loans;
3. Provide security for homeowners who fear criminal intrusion and personal accidents while living alone;
4. Provide separate but close living quarters for homeowners' relatives who are in need;
5. Provide for greater occupational, household type, and income-level diversity within neighborhoods;
6. Make more efficient use of existing infrastructure.

Ordinance # 2006-06

7. Provide an opportunity for property owners to create housing that is affordable to lower- and moderate-income renters.

**B. Consistency with adopted plans.** Secondary dwelling units developed in accordance with this section are a residential use that is consistent with the existing general plan and zoning designation for the lot.

**C. Findings.**

1. Secondary dwelling units designed in accordance with this section are consistent with the certified Local Coastal Program.
2. Secondary dwelling units designed in accordance with this section require no discretionary approval, unless as provided for herein.
3. Secondary dwelling units designed in accordance with this section will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
4. ~~Secondary dwelling units larger than 600 s.f. in area are likely to house more than one adult resident who owns a vehicle. Therefore, additional parking is needed for units that exceed 600 s.f. in area.<sup>1</sup>~~
4. Secondary dwelling units located above the intersection of Longview and Stratford in the Pismo Heights Planning Area may increase the number of families that are in danger in emergency situations, because of the lack of secondary access in this area.<sup>2</sup>

**D. Applicability.** Secondary dwelling units are permitted in R-1, R-2, R-3, R-R, P-R zones, with the exception noted below<sup>2</sup>, on lots or parcels where there is only one existing or planned residence, and where the required number of parking spaces for the primary residence is provided. The requirements in this section apply to new secondary dwelling units and to additions to existing secondary dwelling units. The total number of residences permitted on one lot in accordance with these regulations is two: one primary and one secondary unit, regardless of the zone.

1. Exception. Secondary dwelling units are not permitted in the R-1 zone above the intersection of Longview and Stratford, in the Pismo Heights Planning Area.<sup>2</sup>

**E. Permit required.** Secondary dwelling units are permitted with approval of either a Zoning Clearance, consistent with Section 17.121.100, or a Coastal Development Permit, consistent with Section 17.124.030 and as otherwise provided in this section.

1. **Projects outside Coastal Zone.** A Zoning Clearance is required. Action on the permit is final.

<sup>1</sup> This finding was added when the ordinance was written to require two parking spaces for larger units. That requirement was eliminated so the finding should be eliminated also.

<sup>2</sup> Not recommended by PC

Ordinance # 2006-06

2. **Projects in Coastal Appeal Zone.** A Coastal Development Permit is required. The public hearing is hereby waived, in accordance with Section 17.124.100, unless the second unit is a part of a larger project that requires a public hearing or if a variance is requested. Notice shall be provided in accordance with Section 17.125.090. Action on project is final, unless appealed to the Coastal Commission within ten days of the Commission's receipt of the Notice of Final Action.
3. **Projects in Coastal Zone, non-appealable.** A Coastal Development Permit is required. Notice is required, in accordance with Section 17.124.090. Action on the Coastal Development Permit is final.
4. **Projects on hillsides. Development of a secondary dwelling unit on a slope that exceeds 30% requires approval of a Coastal Development Permit by the Planning Commission.**

**F. Density.** For purposes of calculating the density on a lot, the primary and secondary dwelling units together shall be considered to be one density unit. Secondary dwelling units do not exceed the allowable density for the lot upon which the unit is located. Only one primary and one secondary unit are permitted per legal lot or parcel.

**G. State Law Applicability.** The provisions of this section shall be subordinate to and superseded by the controlling provisions of any applicable state law or laws.

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A deed restriction shall be recorded against the title of the property that contains the second dwelling unit, prior to issuance of a building permit. Such deed restriction shall stipulate that the second dwelling unit cannot be sold separately or used as a transient rental ~~as long as a transient rental is prohibited by code~~<sup>4</sup>, and that one of the units must be occupied by the property owner.

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<sup>3</sup> To limit the number of "opportunistic" developments of second units.

<sup>4</sup> This additional language is redundant and may be confusing. The ordinance specifically states that a primary or second unit may not be used as a transient rental; if a vacation rental ordinance is adopted, then these words may be changed at that time.



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Ordinance # 2006-06

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~~a. **Within one year of adoption.** An application for a certificate filed within one year of adoption of this ordinance must include a site and floor plan, documentation of ownership, and a fee as established by City Council resolution.~~

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1. The project meets the intent of State law and of the secondary dwelling unit regulations.
2. The exception is reasonably necessary for the development of a primary and secondary unit on the site.
3. The project will be compatible with the neighborhood.

**L. Illegal secondary dwelling units.** The establishment of a secondary dwelling unit without a Zoning Clearance, Coastal Development Permit, or Acceptance Certificate is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.

