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# W17a

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Staff: A. Black - SF  
Staff Report: 2/21/2020  
Hearing Date: 3/11/2020

## STAFF REPORT: CDP HEARING

**Application Number:** 2-19-0586

**Applicant:** City of Pacifica

**Project Location:** Two public, City-managed parking lots accessed from Highway 1 and fronting Pacifica State Beach (also known as Linda Mar Beach) in the City of Pacifica, San Mateo County.

**Project Description:** Re-authorize a parking fee program between 8am and 8pm daily and allow for regular parking lot maintenance activities at Pacifica State Beach north and south parking lots, all for a 5-year period.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The City of Pacifica proposes to re-authorize and improve upon a parking fee program that was previously approved and permitted by the Commission in 2012 (via CDP 2-12-019). The program site is located at the north and south parking lots immediately adjacent to Pacifica State Beach (also known as Linda Mar Beach), in between Crespi Drive and Linda Mar Boulevard along the seaward side of Highway 1, in the City of Pacifica. Under the previously approved parking program, the City charged \$3 for a period of 4 hours or less, \$6 for a period of more than 4 hours (or all day), and \$50 for an annual pass. Although concerned at the time about the imposition of parking fees when parking had historically been free at these public parking lots, the Commission approved that program in large measure because all of the funds generated were required to be used for Pacifica State Beach management and maintenance measures,

and thus were being used for beach enhancement, and not general fund revenues. Ultimately, however, the CDP expired in 2017, but the City continued to operate the program, and even increased parking fees, all without the benefit of a CDP.<sup>1</sup>

The City now proposes to recognize after-the-fact (ATF) the currently unpermitted parking fee program, and to implement it for the next five years. That program would include an increase in parking fees (up to \$7 for 4 hours or less, \$9 for more than 4 hours, and \$72 for the annual pass), but would continue to reserve 5% of the available parking lot supply (or 9 out of the 189 total parking spaces) for free short-term parking spaces (i.e., with the same time limit of 30 minutes). The City also proposes to establish a low-income annual parking pass option (to be referred to as the “Pacifica Resource Beach Parking Pass”) discounted 65% compared to the regular pass cost (i.e., \$25 annually), and requests authorization for beach parking lot maintenance activities for the same 5-year period. As with the prior program, the City proposes that 100% of the revenues be applied to beach management and maintenance activities at Pacifica State Beach, including funding two dedicated beach rangers.

Pacifica State Beach is owned by California State Parks but is operated by the City’s Public Works Department through an agreement to manage the beach and related facilities (including the parking lots). According to the City, the beach here is the most highly used beach in all of San Mateo County, and it is a particularly popular surfing destination on the Peninsula. It is also an important habitat area, particularly for the threatened western snowy plover, and management of these sometimes competing interests is key to ensuring overall coastal resource protection. Monitoring from the prior program and other input indicates that such habitat was generally effectively managed by the City, but there would appear to be some room for improvement (e.g., related to trail monitoring, control of off-leash dogs, and public education). Similarly, although monitoring did not show significant impacts on parking spillover affects generally, there is evidence to suggest that some members of the public that were least able to afford the parking fees were seeking out free nearby parking options as a result of implementation of the program.

To address these concerns, City and Commission staff have worked together on improvements to the program, both in terms of protecting habitat as well as ensuring lower income users are not disproportionately affected. In terms of the latter, and in an effort to ensure that those without sufficient means can also make use of the parking lots with easier access to the beach, the City proposes to provide the above-mentioned Pacifica Resource Beach Parking Pass. In this way, the program can address the disproportionate impact that such fees can have on access for those least able to afford it and ensure that access for all is achieved to the greatest extent possible at Pacifica

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<sup>1</sup> All of which is the subject of an open violation. Because there are violations here, and because the City here is requesting after-the-fact approval to continue the currently unpermitted program (and to attempt to resolve the Coastal Act violations), Commissioners should not engage in any ex parte communications related to these violations (consistent with advice from both the State Attorney General and the Coastal Commission Chief Counsel (see memos dated June 20, 2014 and August 1, 2014, respectfully)).

State Beach. This is particularly important given the increase in fees proposed here by the City as compared to the prior program.

In closing, staff believes that approval, as conditioned, provides overall benefits through program improvements to the beach recreational access experience and beach habitats at this location, including where better management can appropriately offset and limit potential impacts, and allows for re-evaluation of the program before it is re-authorized. In fact, the program, as modified, addresses potential adverse impacts to coastal resources while also allowing for improved protection and maintenance measures for coastal resources. In some ways, the parking fee program is a model of how such a fee program can be found consistent with other Coastal Act objectives, including as the revenue doesn't simply go to the City's general fund, but is actually invested into the care and maintenance of the beach and its environs, thus providing something of significant public benefit in return for the fees paid.

Again, Commission staff has worked closely with City staff to update the CDP in this respect. Thus, staff recommends approval of CDP application 2-19-0586 as conditioned. The motion is found on page 5 below.

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Exhibit 8 – Repair and Maintenance BMPs

## I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **approve** Coastal Development Permit Number 2-19-0586 pursuant to the staff recommendation, and I recommend a **yes** vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 2-19-0586 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the Permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Applicants or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** See Special Condition 6.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Applicants to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Approved Project.** This CDP authorizes a parking fee program at Pacifica State Beach between the hours of 8 am and 8 pm (\$7 for 4 hours or less, \$9 for more than 4 hours, \$72 for an annual pass, \$25 for the lower income Pacifica Resource Beach Parking Pass Plan, nine 30-minute free parking spaces, and free parking between 8pm and 8am), authorizes signs to implement the program, and authorizes beach parking lot maintenance activities, consistent with all CDP terms and conditions. Any proposed changes not provided for through the CDP terms and conditions, including explicitly any proposed fee increases, shall require a CDP amendment or a new CDP.
- 2. Pacifica Resource Beach Parking Pass Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit for Executive Director review and approval two sets of a Pacifica Resource Beach Parking Pass Plan. The Plan shall provide details on the lower income pass program to be implemented for Pacifica State Beach, and shall include, at a minimum, a description of lower income pass eligibility requirements, instructions on how the pass can be obtained, a description of pass payment provisions, and an outreach and monitoring plan. The Plan shall be consistent with all of the following criteria:

  - (a) Coordination.** The Plan shall be developed in coordination with the Pacifica Resource Center, whose mission is to support economic security of lower income families and individuals, or with an equivalent local entity as approved by the Executive Director.
  - (b) Pass Name.** The pass shall be publicly referred to as the ‘Pacifica Resource Beach Parking Pass’ in all signage, advertisement, and any other form of public outreach.
  - (c) Eligibility.** All persons whose income is 80% or less of the median income level for the United States County in which they reside (and for non-United States residents, all persons whose income is 80% or less of the median income level for California) shall be eligible for the pass, and eligibility shall be determined by the Pacifica Resource Center.
  - (d) Pay Structure.** Passes shall be available at a minimum at the City of Pacifica’s Parks, Beaches, and Recreation office, and shall also be made available through the City’s web page. The overall cost per year for the annual pass shall be no more than \$25.
  - (e) Outreach.** Information on how to obtain the pass shall be made available to the public both online at the City of Pacifica Parks and Recreation website and in the form of permanent signage at the Pacifica State Beach parking lots. At least one permanent sign shall be posted at each pay machine identifying the pass program and information on obtaining the passes, where each sign shall be in both English and Spanish. The Plan shall provide sign details, including all text and graphics, and each sign shall include the California Coastal Commission

emblem, and recognition of the Coastal Commission's role in providing more inclusive public access at this location.

- (f) Monitoring.** The Plan shall provide that pass outreach and use data be collected and provided as a part of the Annual Project Reports (see also **Special Condition 6**).

All requirements above and all requirements of the approved Pacifica Resource Beach Parking Pass Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Pacifica Resource Beach Parking Pass Plan. Minor adjustments to these requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 3. Parking Program Monitoring.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit for Executive Director review and approval two sets of a parking program monitoring program that shall, at a minimum, incorporate the following:
- (a) Duration.** Monitoring shall be conducted throughout the period that the pay parking program and all related development remain authorized by this CDP.
- (b) Location.** Monitoring shall occur at all parking lot and on-street parking areas within a 1,500-foot radius of the two Pacifica State Beach parking lots (north and south), including at the Pedro Point, Linda Mar, Pacifica Community Center, and Crespi Shopping Centers, and including along San Pedro Avenue, Desolo Drive, Crespi Drive, Roberts Road, and Linda Mar Boulevard.
- (c) Timing.** Monitoring shall occur on the first Saturday of each yearly quarter (i.e., the first Saturday of January, April, July, and October) as well as the Monday of Memorial Day and Labor Day weekends, for a total of six days per calendar year.
- (d) Counts.** Monitoring shall include at a minimum: parking counts (for the parking lots) with written estimates (for other monitored parking areas) taken at the approximate hours of 9:00 a.m. and 3:00 p.m. for each area; identification of temperature, weather and surf conditions at the time of each parking count (which can be established using generally available public data); and assessments (e.g., in the form of percentages, bar charts, and noteworthy events) of factors that may have impacted parking.

All requirements above and all requirements of the approved Parking Monitoring Program shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Parking Monitoring Program. Minor adjustments to these requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

**4. Dune Protection.** Pacifica State Beach rangers shall regularly monitor the multi-use coastal trail area adjacent to Pacifica State Beach (east of the sandy beach) and shall take action to help prevent dune/plover habitat impacts, including to direct users to developed trails and away from informal trails through the dunes (including through public outreach, enforcement of dog-leash laws and regulations, trash clean-up, exclosures/symbolic fencing, educational signage, etc.). Such ranger activity shall require the following:

**(a) Ranger Job Description.** Each ranger shall be informed of and trained on their responsibility to fulfill dune protection activities at Pacifica State Beach consistent with the requirements of this CDP, including assistance and supervision of the general public in its use of recreational facilities; provision of information to the public regarding the use of beaches; issuance of leash law citations; and daily recording of management activities. These activities shall be completed on a routine basis. These expectations must be made clear in the ranger job description.

**(b) Beach Management Reporting.** Each ranger shall report time spent managing Pacifica State Beach on a weekly basis. Monitoring will include a reporting of time spent on at least the following tasks: directing beach users to developed trails and away from informal trails through the dunes; performing public outreach by distributing and explaining educational/ informational hand-outs; picking up/cleaning-up trash; photographing the dunes to document current conditions including any informal and/or unauthorized trails. The reporting shall include leash law citation counts. This information shall be provided as a part of the Annual Project Reports (see also **Special Condition 6**).

**5. Beach Parking Lot Maintenance.** Beach parking lot maintenance activities at the site shall be allowed limited to the following:

**(a) Allowable Maintenance.** Removal of sand from the sidewalks and parking lot and placement of sand back on the beach, on an as needed basis; pavement striping when lines fade or after a slurry sealing or re-pavement event; slurry sealing of pavement; and pavement overlay wherein the entire pavement surface is replaced with a 2-inch asphalt concrete layer.

**(b) Best Management Practices.** Beach parking lot maintenance activities shall incorporate all required best management practices as proposed by the Permittee in the project description submitted in the Coastal Commission's North Central Coast District offices on February 13, 2020 (see Exhibit 8).

**(c) Reporting.** At least two weeks prior to each maintenance event, the Permittee shall give written notification to planning staff of the Coastal Commission's North Central Coast District Office. The written notification shall include: (1) a detailed description of the maintenance proposed; (2) a construction plan that clearly describes construction areas and methods consistent with the required BMP's above; (3) other agency authorizations; and (4) any other supporting



documentation describing the maintenance event. Maintenance or repair may not commence until the Permittees have been informed by planning staff of the Coastal Commission's North Central Coast District Office that the maintenance proposed complies with this CDP. If the Permittees have not been given a verbal response or received a written response from the Coastal Commission within two weeks of the written notification being submitted in the North Central Coast District Office, the maintenance shall be authorized as if Commission planning staff affirmatively indicated that the maintenance complies with this CDP. The written notification shall clearly indicate that maintenance is proposed pursuant to this CDP and that the lack of a response to the written notification within two weeks constitutes approval of it as specified in the CDP. If the written notification does not explicitly indicate that maintenance is proposed pursuant to this CDP, then the automatic authorization provision does not apply. In the event of an emergency requiring immediate maintenance, the notification of such emergency shall be made as soon as possible and shall (in addition to the foregoing information) clearly describe the nature of the emergency. Lastly, the Permittee shall submit pre- and post-work site photographs once the work has been complete.

6. **Annual Project Reports.** By December 31st of each year, the Permittee shall submit for Executive Director review and approval two sets of an annual project report for each year that this CDP remains in effect. The annual project report shall, at a minimum, include:
  - (a) **Pacifica Resource Beach Parking Pass.** All monitoring data required as part of the approved Pacifica Resource Beach Parking Pass Plan (see **Special Condition 2** above) shall be both narrative and illustrative (e.g., tables, graphs) and include explanations, details related to yearly trends, and supportive documentation.
  - (b) **Parking and Dune Monitoring.** All materials and information associated with the approved Parking Monitoring Program and Dune Protection requirements listed above including data regarding ranger activities including issuance of parking and leash law citations (see **Special Conditions 4 and 5** above).
  - (c) **Format.** All such monitoring data shall include both narrative and illustrative information (e.g., tables, graphs, photos, comparisons to pre-fee program operations, etc.), explanations of any noteworthy events that may have impacted parking, and details related to yearly trends with supportive documentation.
  - (d) **Accounting.** An accounting of all revenues and expenditures associated with the pay parking program, including, at a minimum, an accounting broken down by at least month and year of the amount of fees collected, including by fee categories (i.e., less than four hours, over four hours, annual pass, Pacifica Resource Beach Parking Pass, etc.), and the expenditures from the fees

collected, including broken down by expenditure categories (e.g., beach ranger salaries, parking lot maintenance, beach maintenance, etc.).

**(e) Evaluation.** An assessment of the overall effect of the pay parking program and its related expenditures on beach access, parking (in the parking lots and the other parking monitoring areas), dune/plover habitat (including a description of actions taken pursuant to **Special Condition 4**), and overall beach management and public recreational utility at Pacifica State Beach. The assessment shall also discuss any barriers to implementation of the program or for participation in the program.

**(f) Adaptive Management.** Recommendations on minor project modifications to make the program operate more effectively and efficiently and to better protect coastal resources. Such measures may be approved by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; (2) do not adversely impact coastal resources; and (3) can be implemented pursuant to a reasonable time frame.

**7. Five-year Authorization.** The development authorized by this CDP shall be authorized for a term of five years following Commission approval (i.e., through March 11, 2025). The Executive Director may extend the term for an additional five years (i.e., through March 11, 2030) if the Permittee submits a request for same at least 90 days before March 11, 2025 and if the Executive Director determines that there are no changed circumstances that would warrant a new re-review of the program. If the Executive Director determines that a re-review is required, the Permittee shall submit a new CDP application for Commission consideration, and the program shall be stayed (i.e., not operated, with signs and related program components bagged or otherwise hidden) pending a Commission decision on it. If the CDP expires or if the program is not authorized by the Commission as part of that re-review, then all ticket machines and all related signage/development shall be removed, and the pay parking program discontinued immediately or under the time frame as may be established by the Commission.

**8. Beach and Parking Lots Hours and Operations.** Pacifica State Beach, the parking lots, and all other areas that are part of this Pacifica State Beach program shall remain open 24 hours per day (except for the restrooms, which may be closed during nighttime hours (i.e., from one-hour after sunset to one-hour before sunrise). Development and uses within these areas that disrupt and/or degrade public access, including areas set aside for private uses, barriers to public access (such as planters, temporary structures, private use signs, fences, barriers, ropes, etc.) shall be prohibited. These public use areas shall be maintained in a manner that maximizes public use and enjoyment.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT LOCATION AND BACKGROUND

The proposed project is located at Pacifica State Beach in the City of Pacifica in San Mateo County (see **Exhibits 1** and **2**). Pacifica State Beach, also known as Linda Mar Beach, is the southernmost beach area in the City of Pacifica. It is approximately three-quarters of a mile in length, shaped in a crescent, and located at the mouth of the San Pedro Valley fronting the Linda Mar neighborhood. The beach area is generally bounded by the Pacific Ocean to the west; rocky headlands to the north and south, and Highway 1 to the east. East of Highway 1 is the City's Linda Mar residential subdivision and commercial development.

The developed parking lots and restrooms and other public beach recreational facilities have been present at Pacifica State Beach in one form or another for nearly 50 years (see **Exhibit 3**). These facilities were originally installed by the State when the beach was managed directly by California State Parks, include two parking lots, restrooms, outdoor showers, and a segment of a coastal multi-use public access trail, which is Americans with Disabilities Act (ADA) compliant, that extends through Pacifica State Beach from the Rockaway headlands to the north and along the beach southward past Linda Mar Boulevard. The State transferred management of Pacifica State Beach to the City in 1990, at which point the City (and City's Department of Public Works) assumed primary responsibility for operational management and maintenance subject to the terms of the 1991 agreement between State Parks and the City (see **Exhibit 5**).

Pacifica State Beach is one of the first and most popular beach recreational areas south of San Francisco, particularly for recreational activities such as ocean swimming and surfing. The beach and its offshore waves are particularly popular with surfers and is likely the most used beach for surfing located north of Santa Cruz. The beach is also known to provide habitat for the western snowy plover as a wintering location.

The two existing Pacifica State Beach parking lots are popular and convenient parking locations for the public as they are used by general beach users, surfers, joggers, people who fish, dog-walkers, and others who enjoy the natural ocean setting and overall coastal experience. The City indicates that the beach and the parking lots are currently open 24 hours a day without curfew or restriction, and the restrooms are closed at night. The parking lots are located immediately west of Highway 1 between Linda Mar Boulevard and Crespi Drive. Nearby parking areas are also used for beach parking and consist of private parking lots at Pedro Point, Linda Mar, and Crespi Shopping Centers, and public parking lots at the Linda Mar Park-n-Ride Lot (located at Highway 1 and Linda Mar Boulevard) and the Pacifica Community Center (located at 540 Crespi Drive). Free, on-street parking is also open to the public in the vicinity of the proposed project site. Parking can be found on San Pedro Avenue, Desolo Drive, Crespi Drive, Roberts Road, and Linda Mar Boulevard.

The City previously operated a parking fee program that was approved and permitted by the Commission in 2012 (via CDP 2-12-019). Under the previously approved parking

program, the City charged \$3 for a period of 4 hours or less, \$6 for a period of more than 4 hours (or all day), and \$50 for an annual pass. Ultimately, however, the CDP expired in 2017, but the City continued to operate the program, and even increased parking fees, all without the benefit of a CDP.<sup>2</sup> Thus, although that prior program and the Commission's approval of it provide relevant information for consideration of this CDP application, the current permitted baseline is that the parking lots are operated for free public parking (i.e., as it was prior to the Commission's approval of the CDP in 2012)

See **Exhibit 1** for the project site location map, **Exhibit 2** for site photographs and **Exhibit 3** for site plans.

## **B. PROJECT DESCRIPTION**

The City now proposes to recognize after-the-fact (ATF) the currently unpermitted parking fee program, and to implement it for the next five years. That program would include an increase in parking fees (up to \$7 for 4 hours or less, \$9 for more than 4 hours, and \$72 for the annual pass).<sup>3</sup> but would continue to reserve 5% of the available parking lot supply (or 9 out of the 189 total parking spaces) for free short-term parking spaces (i.e., with the same time limit of 30 minutes). The City also proposes to establish a low-income annual parking pass option (to be referred to as the "Pacifica Resource Beach Parking Pass") discounted 65% compared to the regular pass cost (i.e., \$25 annually), and requests authorization for beach parking lot maintenance activities for the same 5-year period (i.e., sand removal from the sidewalks and parking lots and placement of the sand back on the beach; pavement striping; pavement slurry sealing; and pavement overlay). As with the prior program, the City proposes that 100% of the revenues be applied to beach management and maintenance activities at Pacifica State Beach, including funding two dedicated beach rangers.

The proposed parking fees would continue to apply to vehicular parking only. Members of the public who walk or ride bicycles into the lots would not be required to pay a fee. Parking fees collected via the parking program would continue to be used to cover costs associated with managing and maintaining the beach and related facilities, including the continued employment of two beach rangers to manage and watch over the beach area; to communicate with the public on beach and parking regulations; to help actively maintain the beach area, parking lots, restrooms and showers; to enforce beach

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<sup>2</sup> All of which is the subject of violation case number xxx. Because there are violations here, and because the City here is requesting after-the-fact approval to continue the currently unpermitted program (and to attempt to resolve the Coastal Act violations), Commissioners should not engage in any ex parte communications related to these violations (consistent with advice from both the State Attorney General and the Coastal Commission Chief Counsel (see memos dated June 20, 2014 and August 1, 2014, respectfully)).

<sup>3</sup> The City indicates that the fee adjustments are necessary for the program to be self-sufficient, and further indicates that they incrementally implemented these fee increases without CDP in each of the last 5 years, ultimately to the currently proposed level.

regulations (such as those related to littering and dog leash laws); as well as to protect the coastal sand dunes and snowy plover habitat (see **Exhibit 4** for annual expenditures). The beach and parking lots would continue to remain open 24 hours per day, with the parking fee program operating daily from 8am to 8pm (and free parking otherwise between 8pm and 8am).

See **Exhibit 3** for site plans depicting the parking lot and beach areas and see **Exhibit 4** for a description of past revenues and expenditures associated with the prior approved program.

### **C. STANDARD OF REVIEW**

The proposed project is located within the Commission's retained CDP jurisdiction area. As a result, the standard of review for this application is the Chapter 3 policies of the Coastal Act.

### **D. PUBLIC RECREATIONAL ACCESS**

#### **Applicable policies**

The Coastal Act protects public recreational access to the coast, including parking access. Relevant Chapter 3 policies include:

**Section 30210:** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Section 30211:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Section 30212:** *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby...*

**Section 30212.5:** *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

**Section 30213:** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

**Section 30220:** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

**Section 30221:** *Oceanfront land suitable for recreational use shall be protected for recreational use and development ...*

**Section 30223:** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

**Section 30240(b):** *Development in areas adjacent to...parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those...recreation areas.*

**Section 30252:** *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...*

In addition to these Chapter 3 policies, the Coastal Act also speaks to the need to ensure that coastal development does not unduly burden any particular segment of the population with adverse environmental impacts and reflects a focus on explicitly requiring fair treatment to all people in the application of the Coastal Act and LCPs, including the “equitable distribution of environmental benefits throughout the state,” as follows:

**Section 30107.3:** *“Environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.*

**Section 30604(h):** *When acting on a coastal development permit, the issuing agency, or the Commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.*

Among the most important goals and requirements of the Coastal Act is the mandate to protect, provide, enhance, and maximize public recreational access opportunities to and along the coast, consistent with strong resource conservation principles. Within this guiding framework, the protection of and priority for lower cost visitor and recreational facilities is explicitly identified. Further, the Coastal Act Section 30210 direction to maximize access represents a different threshold than to simply provide or protect such access and is fundamentally different from other like provisions in this respect. In other words, it is not enough to simply *provide* access to and along the coast, and not enough to simply *protect* access, rather such access must also be *maximized*. This terminology

distinguishes the Coastal Act in certain respects and provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one.

### **Analysis**

As described above, Pacifica State Beach is owned by State Parks and managed and operated by the City pursuant to an operating agreement, last updated in October 2019 (see **Exhibit 5**). The City is required to operate the State Beach consistent with the purposes of the State Park System and may establish rules and regulations for the use and enjoyment thereof by the public. The agreement requires that the City care for, maintain, operate, and control State Beach property, including the parking lots. Per the Agreement, any charges, fees, or collections made by the City for services, benefits, or accommodations to the general public are limited to actual needs for the care, maintenance, and control of the property. As dictated by the agreement, the City is not allowed to otherwise profit from any such fees, and such fees cannot be diverted away from the sole use for Pacifica State Beach.

The intent of the proposed parking program is to provide revenue to enable the City to better maintain and operate the State Beach and its associated facilities for the benefit of the public. Another program purpose is to provide a better recreational beach experience and improve overall habitat management. As such, and as also required by the State Park operating agreement, all revenues from the parking program are proposed to be used exclusively for the maintenance of the State Beach, including funding for two beach rangers, police services, the maintenance of restrooms and showers, annual expenses related to the parking machines, and dune protection measures. According to the City's monitoring reports provided under the prior CDP for fiscal years 2013-2014 through to 2018-2019, annual expenditures have ranged from \$502,371 to \$615,610 and revenue has ranged from \$427,400 to \$675,291 (see **Exhibit 4**). After review of annual monitoring and budget reports, the data suggests that the revenue generated over the program approval period was used for the purposes originally considered appropriate under the program. The City even created a Beach Enterprise Fund in Fiscal Year 14/15 to track all expenses and revenues for the program, separate from other City budget items (see **Exhibit 4** for the actual breakdown of the estimated costs and revenues as required by the previously approved program).

### **Public Recreational Access Concerns**

Pacifica State Beach is very popular and heavily used. The parking lot is often filled to capacity, especially during peak usage times (i.e., generally early mornings and late afternoons, particularly on weekends), and is particularly popular with surfers. The idea of a fee system for use of these lots has previously raised a threshold question of whether such a parking fee program would have an adverse impact to public recreational access that cannot be reconciled with the Coastal Act. Coastal beach areas provide an important public recreational function and free parking access (such as that that was historically been provided at Pacifica State Beach) is often in high demand. Pacifica State Beach also exemplifies the interface between human recreational use of a coastal area and a natural habitat that is also used by a sensitive species, in this case the threatened western snowy plover in the northern back beach area. Thus, any

imposition of a cost for parking access to this area and the way such fee collection affects site resources, such as lower cost visitor-serving opportunities, must be thoroughly reviewed each time it is considered for permitting.

Many areas of urbanized California coastline have some form of parking fee or program, and these are generally driven by public safety, public access regulation, and revenue generation objectives, all of which are among the stated purposes of the City in this application. The cited Coastal Act policies make clear that maximum recreational access must be provided for all segments of society. Those policies also require that lower cost visitor and recreational facilities be protected and require that adjacent park and recreation areas, like the beach, be protected from the effects of adjacent development.

Another concern regarding trends in parking regulations is the cumulative impacts of individual projects like this on the ability of the public to readily park and access the shoreline more broadly. Over time, the establishment of parking regulations can lead to a diminishing number of free and/or lower cost parking spaces for prime visitor destinations, including that which had been present at Pacifica State Beach before the inception of the program approved pursuant to CDP 2-12-019. The concern that follows is that the establishment of one parking program may lead to an increase in pay parking programs in immediate surrounding areas.<sup>4</sup> Therefore, the cumulative impact of the parking program must also be considered, especially for those in need of lower cost facilities in order to access the coast at all. Where the Commission has acted to approve parking fee programs, applicants have often been required to relocate or provide free parking elsewhere.<sup>5</sup> Even in cases where the proposed parking restrictions were limited to timing restrictions (and not fees), the Commission has often required offsetting mitigation in the form of ensuring the continuation of free unrestricted parking nearby.<sup>6</sup>

In the original consideration of this parking fee program (i.e., in CDP 2-12-019), it was thought that implementation of the program could reduce use of the fee lots and result in a “spill-over” effect whereby parking patterns would change and result in increased beach visitor parking in adjacent commercial and residential areas that are currently free of charge or where fees are lower. Annual reports submitted as a part of the condition requirements for the previous CDP noted general shifts in parking within a 1,500-foot radius of the State Beach at varying degrees but with no overall clear trend. However, the data did show a significant increase (by 142%) in parking at the San Pedro Shopping Center (a private commercial lot that is directly south of the Linda Mar lots)

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<sup>4</sup> For example, a pending CDP application was submitted in June 2018 for the authorization of another paid parking program at Pedro Point Shopping Center (immediately south of the Linda Mar parking lots).

<sup>5</sup> See, for example, previous Commission actions on CDPs 3-04-027 (City of Pacific Grove), 5-84-236 (City of Hermosa Beach), 5-98-42 (City of Long Beach), 5-02-380 (City of Santa Monica), and 5-02-422 (City of Seal Beach).

<sup>6</sup> See, for example, CDP A-3-STC-07-057 (City of Santa Cruz).



and a tripling in the number of vehicles parked on Crespi Drive and Roberts Road.<sup>7</sup> Further, the data showed a general increase in use of the fee lots over the years, including an increase in the number of people purchasing annual passes.<sup>8</sup> Thus, it is not clear whether the increases in parking at nearby free lots are from spillover or from a general increase in parking in the area overall.

### ***Environmental Justice***

Throughout California’s history, lower income communities, communities of color, and other marginalized populations, generally referred to here as “underserved communities,” have often faced disproportionate burdens in accessing the California coastline due to geographic, economic, social, and cultural barriers. Ensuring maximum and equitable public access to the California coastline (as required by the Coastal Act, including Sections 30210 and 30213) is consistent with environmental justice principles reflected in the Coastal Act. As indicated above, Coastal Act Section 30604(h) provides that the Commission may consider environmental justice issues when considering CDP applications, such as this one.”<sup>9</sup>

Towards this end, the Commission also adopted an environmental justice policy in 2019,<sup>10</sup> committing the agency to considering environmental justice principles consistent with Coastal Act policies in the agency’s decision-making process as a means of helping to ensure the benefits of coastal resources and coastal resource protection under the Coastal Act are accessible to everyone. In approving the policy, the Commission recognized that equitable coastal access is encompassed in, and protected by, the public access policies of Chapter 3 of the Coastal Act, finding that:

*The Coastal Act’s mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower-cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its longstanding commitment to identifying and eliminating barriers, including those that unlawfully privatize public spaces, in order to provide for those who may be otherwise deterred from going to the beach or coastal zone. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, income socio-economic status, or place of residence or other factors...*

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<sup>7</sup> Part of this could also have been attributable to construction of a nearby Community Center and the temporary use of a portion of the south parking lot for storm water storage in 2018 (see CDP Waiver 2-18-1079-W).

<sup>8</sup> See City of Pacifica Annual Reports for Fiscal Years 13/14 – 18/19.

<sup>9</sup> Government Code Section 65040.12(e) defines environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.”

<sup>10</sup> California Coastal Commission Environmental Justice Policy (March 8, 2019), [https://documents.coastal.ca.gov/assets/env-justice/CCC\\_EJ\\_Policy\\_FINAL.pdf](https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf).

*Understanding that even nominal costs can be barriers to access, preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, **and associated free or low-cost parking areas.** (emphasis added).*

Including as embodied in the Commission's adopted environmental justice policy, the term "environmental justice" is currently understood to mean equitable distribution of environmental benefits, including equitable opportunities for coastal access and recreation for all. In California, equitable coastal access and recreation opportunities for all has been an elusive goal in certain areas and with respect to certain populations, especially due to historic and social factors, such as discriminatory land use and economic policies and practices.<sup>11</sup> To this point, spatial analysis of 2010 Census data across demographics groups and proximity to public shoreline access points in California shows that a majority of Californians (79.7%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and older than those who live farther inland.<sup>12</sup>

In this case, the proposed parking fee program would provide funds that would be exclusively used to enhance beach recreational access improvements and management at Pacifica State Beach. As such, the project enhances public recreational access opportunities, including low/no-cost access, associated with beach and non-parking facilities and beach use in general at the site. Further, the proposed project would maintain protections included in the original authorization to help monitor for and safeguard against potential impacts to public recreational access including providing free short term parking spaces, clarifying beach and parking hours, and continuing to monitor potential impacts in and around the project area. In addition, the proposed program streamlines monitoring requirements (including the switch from monthly counts to quarterly counts and removing the requirements to digitally document parking areas) based on the City's experience and Commission's review of the five years of annual reports under the prior CDP in order to allow for some relief to rangers and focusing time and funding to better manage and maintain the facilities for the public benefit.

However, as described above, despite the past conditions of approval associated with the prior CDP, the monitoring efforts had not been structured in a way that would account for identification of beach users with lower incomes that were being disproportionately affected by the parking program. In other words, there was no mechanism within the conditions of approval to determine how many people had actually been disincentivized by the program and turned away from the beach due to

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<sup>11</sup> See, for example, *Free the Beach! Public Access, Equal Justice, and the California Coast*, by Robert Garcia and Erica Flores Baltodano, in the 2 Stanford Journal of Civil Rights and Civil Liberties (143, 2005).

<sup>12</sup> See *Coastal Access Equity and the Implementation of the California Coastal Act*, by Reineman, et al, in the Stanford Environmental Law Review Journal (v. 36, pages 96-98, 2016).

parking costs. Thus, adverse impacts to affordable coastal access and recreation have the potential to remain if there is no way to understand, monitor, and address them. Therefore, the proposal to incorporate a lower income pass and associated monitoring requirements would help to account for those who are disincentivized or cannot afford to pay at the lots, consistent with the Coastal Act's public access and recreation policies, and in furtherance of Coastal Act Section 30604(h). In addition, a lower income pass and monitoring requirement will allow for tracking and measuring of those who have been previously disincentivized by the paid parking program. This aspect of the program is even more important given the City's proposal to increase fees (as compared to the prior program under the prior CDP) to \$7 for 4 hours or less, \$9 for more than 4 hours, and \$72 for the annual pass.

Although the lower income pass plan has been proposed by the Applicant, it has yet to be finalized. Therefore, **Special Condition 2** requires submission of a final lower income pass plan, to be called the "Pacifica Resource Beach Parking Pass Plan," for Executive Director review and approval. Specifically, the Pacifica Resource Beach Parking Pass Plan establishes eligibility<sup>13</sup> (in partnership with the Pacifica Resource Center) all persons whose income is 80% or less of the median income level for the United States County in which they reside (and for non-United States residents, all persons whose income is 80% or less of the median income level for California) shall be eligible for the pass, and limits the cost to no more than \$25. The Pacifica Resource Beach Parking Pass Plan will require an outreach plan and installation of signs at each fee station in English and Spanish explaining the program and how to access it. In addition to the establishment of the pass, **Special Condition 2 and 3** also requires all pass usage to be monitored where the City will submit an annual accounting of the program through the CDP's annual reporting mechanism.

### ***Other Requirements***

To continue to assure that affordable coastal access and recreation opportunities are further protected and provided, a series of conditions are applied that help define the overall program, the monitoring of it, options for adaptive management, and related measures. Specifically, **Special Condition 8** explicitly requires the beach and parking lots to remain open 24 hours per day, with the exception of the restrooms which may be closed during nighttime hours (i.e., one-hour after sunset to one-hour before sunrise). With regards to the effect of the program on parking access locally, **Special Condition 3** requires monitoring and annual reporting as per **Special Condition 6**. **Special Condition 3** requires parking monitoring that is designed to document the use of the two beach parking lots, adjacent free private and public lots, and on-street parking. The monitoring required under **Special Condition 3** will help determine if the parking fee is resulting in significantly less use of the parking lots and Pacifica State Beach facilities, and the degree to which it is impacting surrounding areas and coastal resources, including with respect to public access. Under **Special Condition 3**, the City will closely

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<sup>13</sup> And the Pacifica Resource Center indicates that the process would be relatively simple, and would involve submitting an ID and a recent paystub to be able to verify whether the persons income was less than 80% of the median for the County in which they live.

monitor the nearby neighborhoods and parking lots, such as at the Linda Mar Shopping Center and other commercial establishments, to identify the ways in which parking demand may have shifted (including shifting to other forms of transportation, like public transit<sup>14</sup>), and to ensure that the proposed parking fee program is not negatively affecting public access.<sup>15</sup>

The City will also ensure continued dune protection as per **Special Condition 4** by monitoring the trail area to help prevent dune/plover impacts (see also Sensitive Habitat findings below). Minor project modifications to make the program operate more effectively and efficiently, and to better protect coastal resources, may be approved by the Executive Director during the annual reporting process, including in response to monitoring data.

In order to ensure that the revenues are used as proposed, **Special Condition 6** requires a continued accounting of all revenues and expenditures associated with the pay parking program. In addition, the beach parking lot maintenance activities allowed under **Special Condition 5**, will help streamline implementation of beach parking lot maintenance activities and help repair and maintain the facilities for the benefit of the public over time. And finally, **Special Condition 7** limits the length of development authorization to five years, with the possibility of Executive Director extension for an additional 5 years.

Therefore, provided the project is conditioned so that it is limited in scope and duration, project impacts are closely monitored and identified, the Pacifica Resource Beach Parking Pass Plan is implemented, and project revenues are directly earmarked to public recreational access enhancement at Pacifica State Beach, the Commission finds the proposed project consistent with the Coastal Act's public recreational access requirements, as cited above, and finds that it furthers the Coastal Act's environmental justice objectives (including those associated with the Commission's adopted environmental justice policy).

## **E. SENSITIVE HABITATS**

### **Applicable Policies**

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<sup>14</sup> There are five bus lines operated by SamTrans that run through the City of Pacifica, these include the 14, 16, 110, 112, and 118 lines. There are bus stops at the Crespi and Highway 1 intersection in both the northern and southern directions. There are five stops in the Linda Mar neighborhood located just east of the project site and additional stops along Linda Mar Boulevard, Crespi Drive, and other travel routes in the area. Thus, SamTrans provides beach users with an alternative means of accessing the beach should they choose and/or be able to not drive to the site.

<sup>15</sup> The City indicates that it already has digital video baseline data for the parking lots and the more inland parking areas to compare against.

The Coastal Act provides protection for habitat areas, including those that are considered to be environmentally sensitive habitat areas (ESHAs), and on and offshore marine resources, including as follows:

**Section 30240:** *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

**Section 30230:** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

### **Analysis**

Western snowy plover (*Charadrius alexandrinus nivosus*) is a California Species of Concern and a Federally-listed Threatened Species due to loss and degradation of habitat, predation, and human disturbance.<sup>16</sup> There is known wintering habitat for western snowy plovers at Pacifica State Beach, spanning the flat beach from the public restrooms to the north end of the beach (see **Exhibit 6**). The plovers will also utilize the back dunes at the northern end of the beach (to the north of Crespi Drive) as a refuge, particularly when driven there by people or off-leash dogs. Coastal sand dunes themselves constitute one of the most geographically constrained habitats in California as they only form in certain conditions of sand supply in tandem with wind energy and direction. Dunes are a dynamic habitat subject to extremes of physical disturbance, drying, and salt spray, and support a unique suite of plant and animal species adapted to such harsh conditions. As such, the Coastal Commission has in the past found this important and vulnerable habitat to be an environmentally sensitive habitat area (ESHA) due to the rarity of the physical habitat and its important ecosystem functions, including that of supporting sensitive species. Thus, the back dune areas of Pacifica State Beach are considered ESHA under the Coastal Act.

The Pacific coast population of the western snowy plover breeds and overwinters in coastal areas extending from Damon Point, Washington, south to Bahia Magdalena in Baja California, Mexico (including both Pacific and Gulf of California coasts). The U.S. Fish and Wildlife Service's (USFWS) 2007 Recovery Plan for western snowy plover states that habitat destruction is the main cause for the species' decline. The Plover

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<sup>16</sup> See, for example, Colwell, Mark A., et al. "Corvids and Humans Create Ecological Traps in Otherwise Suitable Snowy Plover Habitat." *Wader Study*, vol. 126, no. 3, 2019.

Recovery Plan, additionally, identifies management measures needed in order to protect plover habitat, including enforcement of rules and regulations, management of pets (e.g., keeping dogs on leash, etc.), and on-site signs to educate the public. Similarly, management recommendations for snowy plovers made by the Point Blue Conservation Science<sup>17</sup> include the above measures as well as suggesting additional actions to improve habitat and provide ongoing monitoring. Concerns raised before the implementation of the parking program included the fact that the program could dissuade the public from utilizing the pay parking lots and instead look for free parking options in areas inland of Highway 1 where they would then cross the highway and potentially walk through the coastal dune habitat area. There was also a concern that an increase in the use of existing informal paths – also known as “volunteer paths” – (particularly in the northern end of the beach), would adversely impact the western snowy plover and dune habitats. It was also suspected that additional volunteer paths in the dune areas could develop if there was a significant change in the use pattern of the public access. The sand dunes located between the main beach area and the existing multi-use public access trail could be affected if the public were to change points of access to the beach. This could not only affect plovers, but also more generally affect native vegetation and the overall condition of the back dunes.

Environmental organizations, such as the Pacifica Shorebird Alliance, Point Blue, and others interested in western snowy plover protection, worked with the City on the original Plover Recovery Plan to ensure the protection of snowy plovers at Pacifica State Beach. In addition, certain aspects of that plan (such as dune monitoring, protective fencing, and the addition of directive signage) were incorporated into the originally approved parking program (under prior CDP 2-12-019) to help protect against potential impacts to the plover habitat as a result of fee implementation. Other measures considered by the City to further formalize and enhance plover protection at Pacifica State Beach included clarification of ranger duties, better enforcement of dog-leash laws and regulations, increased clean-up of litter and trash from the beach area, more use of fencing or symbolic fencing to act as a deterrent, and enhanced signage for education and outreach purposes. The City worked with USFWS to consolidate such measures into a more formal management plan. These efforts also resulted in CDP 2-13-1020, which authorized the installation of 1,300 feet of year-round symbolic fencing, 930 feet of seasonal fencing, and associated interpretive signs at Pacifica State Beach as part of a protection plan for western snowy plovers, implementing measures required through CDP 2-12-019. After fencing had been installed in 2015, plover populations increased by 50% after 12 years of decline.<sup>18</sup>

Throughout the implementation of the original paid parking program, the City had indicated that beach users expressed frustration over what they perceived to be a lack

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<sup>17</sup> Previously known as Point Reyes Bird Observatory (or PRBO), and an organization that is responsible for management and monitoring of plover populations for many portions of California coast.

<sup>18</sup> Rickard, Ariana, “Wintering Population of Pacifica Snowy Plovers Increasing,” Audubon California. National Audubon Society 9, June 2015.ca.audubon.org/news/wintering-population-pacifica-snowy-plovers-increasing.

of State and/or City presence to ensure that beach users were informed of and followed beach regulations, particularly with respect to the protective measures required for the western snowy plover and the requirement to keep dogs on a leash. However, according to a City police department memorandum included in the most recent annual report from fiscal year 2018 to 2019, “the City sees this program as a big success. Our beaches, trails, and facilities are now better maintained. The public is even more sensitive to the environment and better educated on the presence and preservation of wildlife.”<sup>19</sup> In addition, according to annual monitoring reports, City rangers have been monitoring and maintaining the multi-purpose coastal trail area adjacent to the State Beach (east of the sandy beach) and have been able to avoid the creation of volunteer trails through the dunes.

As part of this proposed project, the City would use all of the fees collected through its parking fee program to fund two beach rangers and to maintain the beach and the facilities, including for the protection of the western snowy plover. This includes clean-up and controls to assure rules and regulations are enforced regarding littering and trash on the beach, as well as dog leash laws. The parking fees will also continue to pay for part-time police personnel. To help improve on the program and address concerns expressed by the public, **Special Condition 4** requires each ranger to be trained on their responsibility to fulfill beach management activities at Pacifica State Beach consistent with the terms and conditions of this CDP, including assistance and supervision of the general public in its use of recreational facilities; enforcement of parking restrictions; maintenance and custodial duties; provision of information to the public regarding the use of beaches; issuance of citations, control of traffic, and daily recording of management activities. In addition, **Special Condition 4 and 6** requires that ranger time spent managing Pacifica State Beach and the number of leash law citations issued be included in the annual monitoring report. And finally, with help from the City and volunteers, the rangers would continue to conduct regular dune restoration activities that help to prevent and mitigate dune and plover habitat impacts. The potential for indirect impacts to plovers discussed above will continue to be controlled by the clarification of ranger duties and their implementation, and further addressed through the reporting of beach management activities as is required by **Special Conditions 4 and 6**. Furthermore, **Special Condition 7** limits the length of development authorization to 5 years, thereby allowing for reevaluation of the program at that time, and through the annual monitoring reports. Thus, this part of the project serves to provide appropriate and enhanced sensitive habitat protection.

With regard to the beach parking lot maintenance activities, the City has incorporated into its project proposal a series of best management practices (BMPs) designed to ensure protection of adjacent habitats and coastal water quality including but not limited to: silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff or sediment from

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<sup>19</sup> According to Sam Bautista, Acting Director of the City of Pacifica Public Works Department, in the “Annual Reports for FY 2018-2019” for the City of Pacifica.

discharging on to Pacifica State Beach or to areas that would eventually transport such discharge to Pacifica State Beach; equipment washing, refueling, and servicing shall take place at an appropriate off-site and inland location at least 50 feet away from Pacifica State Beach; and grading of intertidal and mudflat areas is prohibited (see **Exhibit 8**). The City will be required to notify the Commission on the timing and scope of such maintenance activities and conduct them in accordance with the submitted BMPs through **Special Condition 5**.

As conditioned, and in tandem with the City's plover management plan, it is expected that adverse impacts to plovers will continue to be avoided. In fact, the program is expected to result in a net benefit to plovers. Therefore, because the project is conditioned to limit scope and duration; require monitoring for and identification of impacts to plovers; will result in a significant net benefit to plovers; and project revenues will continue to be earmarked to beach management at Pacifica State Beach, the Commission finds the proposed project, as conditioned, consistent with the Coastal Act's sensitive habitat requirements as cited above.

#### **F. VIOLATION**

Violations of the Coastal Act exist on the subject property including, but not limited to the unpermitted increase in fees, continuation of the parking program past its expiration date, repair and maintenance activities, and lack of ranger presence on the beach. The approval of the at-issue project pursuant to the terms and conditions of this CDP, after the project is completed, will authorize the continuance of the parking program, the current fee structure, and impose requirements that will better ensure rangers' presence on the beach.

Although development has taken place prior to submission of this CDP application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this CDP does not constitute a waiver of any legal action with regard to the alleged aforementioned violations, or any other violations at the site, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a CDP. In fact, approval of this CDP is possible only because of the terms and conditions included herein and failure to comply with these terms and conditions would also constitute a violation of this CDP and of the Coastal Act. Failure to comply with the terms and conditions of this permit may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

#### **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.



The City of Pacifica, acting as lead CEQA agency, determined that the proposed project was categorically exempt from CEQA review pursuant to Public Resources Code Section 21080(b)(1) (as a ministerial project), and thus the City did not identify any significant adverse environmental effects from the proposed project. The Coastal Commission's review and analysis of CDP applications has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. This 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 proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, the project as conditioned 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).

2-19-0586 (Pacifica State Beach Parking)

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

- City of Pacifica Local Coastal Program
- U.S. Fish and Wildlife Service’s Western Snowy Plover Recovery Plan (2007)
- CDP Application File Number 2-07-042 (Incomplete Application)
- CDP Waiver File Number 2-08-019-W (Beach Safety Kiosks)
- CDP File Number 2-12-019 (Expired Paid Parking Permit)
- CDP File Number 2-13-1020 (Plover Fencing)
- CDP Amendment File Number 2-13-1020-A (Plover Fencing)
- CDP Waiver File Number 2-18-1079-W (Temporary Storage Tanks)

## **APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS**

- California State Parks
- Pacifica Resources Center