CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
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W18d

Date: November 30, 2021

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SOUTH COAST DISTRICT
AMBER DOBSON, DISTRICT MANAGER, SOUTH COAST DISTRICT
AMRITA SPENCER, COASTAL PLANNER, SOUTH COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF NEWPORT BEACH MAJOR AMENDMENT NO. LCP-5-NPB-20-0025-1 Part C (ADUs) for Commission Meeting of December 15, 2021

SUMMARY OF LCP AMENDMENT REQUEST

The City of Newport Beach is requesting that the Commission certify an amendment to the Implementing Plan (IP) portion of the Newport Beach certified Local Coastal Program (LCP). Amendment Request No. LCP-5-NPB-21-0036-1 Part C is a major amendment that would revise the existing regulations in the IP regarding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Part C of this LCP amendment would amend IP Sections 21.26.045 (Planned Community Coastal Zoning District Land Uses) and 21.48.200 (Accessory Dwelling units) to bring the City's ADU ordinance into conformity with the current State ADU laws. In addition, Section 21.18.020.C (Allowed Uses) would be amended to include JADU uses in residential zones along with ADU uses, consistent with State law.

The Newport Beach Planning Commission held a public hearing on the ADU Amendment on February 20, 2020, and the Newport Beach City Council held a public hearing on March 10, 2020, to initiate the LCP Amendment. The City Council adopted City Council Resolution No. 2020-9 on March 24, 2020, authorizing City staff to submit the LCP Amendment to the Coastal Commission (**Exhibit 1**).

Amendment Request No. LCP-5-NPB-21-0025-1 Parts A through Part C (Cottage Preservation, Lido Isle Hedge Heights, and ADUs) was the City's first major LCP amendment submittal in 2020. This report addresses Part C of the submittal only. The Commission heard Parts A and B at the November 19, 2021 hearing and approved Part A subject to suggested modifications and Part B as submitted. Part C is consistent with the procedural requirements of the Coastal Act and the regulations which govern such

proposals (Sections 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).

SUMMARY OF STAFF RECOMMENDATION

The subject LCP amendment involves the Implementation Plan (IP) portion of the certified LCP. Staff recommends that the Commission, after public hearing, **approve** Amendment Request No. LCP-5-NPB-20-0025-1 Part C, an IP-only amendment, **with suggested modifications**. The IP amendment must first be denied as submitted, then the Commission can approve the IP amendment if modified as suggested in this staff report. Staff recommends seven suggested modifications to ensure the proposed changes to the existing ADU development standards are adequately protective of public access and coastal resources and consistent with State laws regarding ADU development. **Suggested Modification #1** requires new ADUs/JADUs to conform to sections 21.28.040, 21.28.050, 21.30.100, and 21.30B of the IP. These sections guide coastal resource protection standards in bluff districts, canyon districts, areas with scenic or visual resources, and sensitive habitat areas. **Suggested Modification #2** requires a CDP to be processed for all new ADUs/JADUs pursuant to IP Section 21.52 (Coastal Development Review Procedures), unless the development of an ADU/JADU is exempt or excluded from the CDP process pursuant to IP Section 21.52.045 (Categorical Exclusions). **Suggested Modification #3** clarifies that ADUs and JADUs are allowed on multi-family lots as well as single-family lots and details the maximum number of ADU and JADUs that are allowed on single-family and multi-family lots. **Suggested Modification #4** acknowledges that greater ADU/JADU setbacks may be required if the ADU/JADU is subject to special coastal resource protections, removes bedroom count restrictions for ADUs and JADUs, and sets the height limit that may be applied to ADUs at 16-ft, consistent with the state ADU laws. This suggested modification also requires ADUs/JADUs in water-fronting lots to comply with the IP Section 21.30.015 development standards listed for all water-fronting development. **Suggested Modification #5** again clarifies that ADUs and JADUs are permitted on multi-family lots, consistent with the state ADU laws. **Suggested Modification #6** requires property owners to record a deed restriction and a waiver of future protection for ADUs/JADUs located in flood hazard areas. **Suggested Modification #7** makes a series of minor clarifying edits throughout the text of the proposed element. These edits are intended to improve the text flow and grammar of the proposed amendment, and do not change the interpretation or intent of the proposed amendment.

If modified as suggested, the City's IP Ordinances will conform with, and will be adequate to carry out, the requirements of the certified LUP. The resolutions and motions begin on **Page 6**. The suggested modifications are detailed in Appendix A of this staff report. The findings for approval of the LCP amendment, if modified as suggested, begin on **Page 7**.

ADDITIONAL INFORMATION

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency, California Assembly Bill 361, and the Governor's Executive Orders N-15-21, N-29-20, and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures

posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

Further information on the City of Newport Beach LCP Amendment LCP-5-NPB-20-0025-1 Part C may be obtained from Amrita Spencer, Coastal Program Analyst, at (562) 590-5071. If you wish to comment on the proposed amendment, please do so via regular mail (directed to the South Coast District Office) or email (by emailing southcoast@coastal.ca.gov) by 5pm on Friday, December 10, 2021.

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EXHIBITS

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514(b) of the Coastal Act, is that the proposed IP amendments conform with, and are adequate to carry out, the provisions of Newport Beach's certified Land Use Plan (LUP).

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in LCP development. It states: "During the preparation, approval, certification, and amendment of any LCP, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of an LCP for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission."

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of an LCP amendment prior to submittal to the Commission for review. The Newport Beach Planning Commission held a public hearing on the Cottage Preservation Amendment on February 20, 2020, and the Newport Beach City Council held a public hearing on March 10, 2020, to initiate the LCP Cottage Preservation Amendment. On March 24, 2020, the City Council adopted City Council Resolution No. 2020-9 **(Exhibit 1)** authorizing City staff to submit the LCP Amendment to the Coastal Commission.

All of the local hearings for the ADU amendment were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that an LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30517. Here, if the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. The City's submittal resolution indicates that the ordinance will only become final after certification by the Commission, but no formal action is required. Should the Commission deny the LCP amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective. Should the Commission deny the LCP amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. The modified LCP amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-5-NPB-20-0025-1 Part C is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

II. MOTION AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. DENY IP AMENDMENT LCP-5-NPB-20-0025-1, PART C AS SUBMITTED

Motion I: I move that the Commission reject Implementation Plan Amendment No. LCP-5-NPB-20-0025-1 Part C as submitted by the City of Newport Beach.

Staff recommends a **YES** vote. Passage of this motion will result in denial of the IP amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Deny as Submitted:

The Commission hereby denies certification of the IP Amendment LCP-5-NPB-20-0025-1, Part C as submitted by the City of Newport Beach and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of the certified LUP. Certification of the IP 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 impact which the IP Amendment may have on the environment.

B. CERTIFY IP AMENDMENT LCP-5-NPB-20-0025-1, PART C WITH SUGGESTED MODIFICATIONS

Motion II: I move that the Commission certify the City of Newport Beach's Implementation Plan Amendment No. LCP-5-NPB-20-0025-1 Part C if modified as suggested in this staff report.

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the IP Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Certify if Modified:

The Commission hereby certifies the IP Amendment LCP-5-NPB-20-0025-1, Part C if modified as suggested and adopts the findings set forth below on the grounds that the amendment conforms with the policies of the certified LUP. Certification of the IP amendment as modified 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 IP on the environment, or 2) there are no feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the IP Amendment may have on the environment.

III. SUGGESTED MODIFICATIONS

Certification of the IP amendments listed above are subject to the modifications found in Appendix A of this staff report. Staff is recommending a total of seven modifications to the Section 21.48.200 (Accessory Dwelling Units). **Suggested Modification #1** requires new ADUs/JADUs to conform to sections 21.28.040, 21.28.050, 21.30.100, and 21.30B of the IP. These sections guide coastal resource protection standards in bluff districts, canyon districts, areas with scenic or visual resources, and sensitive habitat areas. **Suggested Modification #2** requires a CDP for all new ADUs/JADUs pursuant to IP Section 21.52 (Coastal Development Review Procedures), unless the development of an ADU/JADU is

exempt or excluded from the CDP process pursuant to IP Section 21.52.045 (Categorical Exclusions). **Suggested Modification #3** clarifies that ADUs and JADUs are allowed on multi-family lots as well as single-family lots and details the maximum number of ADU and JADUs that are allowed on single-family and multi-family lots. **Suggested Modification #4** acknowledges that greater ADU/JADU setbacks may be required if the ADU/JADU is subject to special coastal resource protections, removes bedroom count restrictions for ADUs and JADUs and sets the height limit that may be applied to ADUs at 16-ft, consistent with the state ADU laws. This suggested modification also requires ADUs/JADUs in water-fronting lots to comply with the IP Section 21.30.015 development standards listed for all water-fronting development. **Suggested Modification #5** again clarifies that ADUs and JADUs are permitted on multi-family lots, consistent with the state ADU laws. **Suggested Modification #6** requires property owners to record a deed restriction and a waiver of future protection for ADUs/JADUs located in flood hazard areas. **Suggested Modification #7** makes a series of minor clarifying edits throughout the text of the proposed element. These edits are intended to improve the text flow and grammar of the proposed amendment, and do not change the interpretation or intent of the proposed amendment.

IV. FINDINGS AND DECLARATIONS – DENIAL OF AMENDMENT NO. LCP-5-NPB-20-0025-1, PART C (ADUs) AS SUBMITTED AND APPROVAL AS MODIFIED

A. LCP AMENDMENT DESCRIPTION

This amendment would amend IP Sections 21.26.045 (Planned Community Coastal Zoning District Land Uses) and 21.48.200 (Accessory Dwelling Units) of the City's LCP to bring the City's ADU ordinance into conformity with the state's current ADU laws (Government Code Sections 65852.2 and 65852.22)**(Exhibit 2)**. Specifically, the amendment would permit ADUs and JADUs in all coastal residential zoning districts, permit ADUs to exceed the 16-ft. height limit if the ADU is constructed above a detached garage, require a 5-ft. rear alley setback for ADUs, and require replacement parking for ADUs that are being converted from garages, carports, or other covered parking structures. In addition, the City is eliminating lot size requirements to establish ADUs/JADUs, removing owner occupancy requirements for ADUs constructed between January 1, 2020 and January 1, 2025, and increasing the maximum ADU size from 750 sq. ft. to 850 sq. ft. for studios or one-bedroom units (two-bedroom units would have a 1,000 sq. ft. maximum size limit).

In 2019, the California Legislature adopted another group of housing bills aimed at addressing the housing crisis. The legislature approved, and the Governor signed, SB 13 (Chapter 653, Statutes of 2019), AB 68 (Chapter 655, Statutes of 2019), and AB 881 (Chapter 659, Statutes of 2019) into law that, among other things, amended Government Code sections 65852.2 and 65852.22 regarding ADUs and JADUs. The new laws intend to reduce regulatory barriers and costs, streamline the approval, and expand the potential capacity for ADUs in response to California's housing shortage. The City's current ADU ordinance is not consistent with Government Code sections 65852.2 and 65852.22 (as

amended) and has subsequently been voided as of January 1, 2020. Until the City certifies and adopts a new ADU ordinance that is consistent with the state's ADU law, all ADU/JADU development within the City would be subject to the standards provided in Government Code sections 65852.2 and 65852.22.

The proposed new IP language is as follows:

Table 21.18-1 in Newport Beach Municipal Code (NBMC) Section 21.18.020.C(Allowed Uses)

Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**R-A**	**R-1** **R-1-6,000**	**R-BI** **R-2** **R-2-6,000**	**RM** **RM-6,000**	**Specific Use Regulations**
Residential Uses					
Accessory Dwelling Units and Junior Accessory Dwelling Units	P	P	P	P	Section 21.48.200

Tables 21.22-1 and 21.22-2 in NBMC Section 21.22.020. (Mixed-Use CoastalZoning Districts Land Uses and Permit Requirements)

TABLE 21.22-1 **ALLOWED USES**	**Mixed-Use Zoning Districts** **A — Allowed** **Not Allowed ***			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-V (6)**	**MU-MM (4)**	**MU-CV/15th St. (5)(6)**	**Specific Use Regulations**
Residential Uses				
Accessory Dwelling Units and Junior Accessory Dwelling Units	A	A	A	Section 21.48.200

TABLE 21.22-2 **ALLOWED USES**	**Mixed-Use Coastal Zoning Districts** **A — Allowed** **Not Allowed ***		
Land Use			

See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	MU-W1 (3)	MU-W2 (5)	Specific Use Regulations
Residential Uses			
Accessory Dwelling Units and Junior Accessory Dwelling Units	A	A	Section 21.48.200

21.26.045 Planned Community Coastal Zoning District Land Uses.

A. Allowed Land Uses. Tables 21.26-3 through 21.26-9 indicate the uses allowed in the Planned Community Coastal Zoning Districts. Additionally, accessory dwelling units and junior accessory dwelling units may be allowed pursuant to Section 21.48.200.

21.48.200 Accessory Dwelling Units.

A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units and junior accessory dwelling units, as defined in Part 7 (Definitions) of this title ~~(Definitions)~~ and in California Government Code Sections 65852.2 and 65852.22, or any successor statute, in single-unit residential zoning districts or areas designated for ~~single-unit~~ residential use, including as part of a planned community development plan or specific plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

B. Effect of Conforming. An accessory dwelling unit or junior accessory dwelling unit that conforms to the requirements in this section shall not be:

1. Deemed to be inconsistent with the Coastal Land Use Plan and coastal zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling units is located;

2. Deemed to exceed the allowable density for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;

3. Considered in the application of any ordinance, policy, or program to limit residential growth; or

4. Required to correct a legally established nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with California Health and Safety Code Section 17980.12.

C. Review Authority. Accessory dwelling units and junior accessory dwelling units shall be approved in any residential or mixed-use zoning district, subject to a Zoning Clearance and the following conditions: ~~in conjunction with single-unit dwellings in all residential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:~~

1. There is an existing or proposed dwelling unit on the lot;

2. The dwelling conforms to the development standards and requirements for accessory dwelling units and/or junior accessory dwelling units as provided in this section; and ~~established in the subsections below; and~~

3.The zoning clearance shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City receives a completed application, unless either:

a. The applicant requests a delay, in which case the sixty (60) day time period is tolled for the period of the requested delay,or

b. In the case of an application for an accessory dwelling unit and/or junior accessory dwelling unit is submitted with an application to create a newsingle-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling application until the Cityrendersa decision on the new single-unit dwelling application.

4.The applicant shall obtain a Coastal Development Permit, pursuant to Chapter 21.52(Coastal Development Review Procedures), unless otherwise exempt or excluded from the coastal development permit process

~~3.Public and utility services including emergency access are adequate to serve both dwellings.~~

D. Coastal Development Permits.

1.Hearing Exemption. All of the provisions of Chapter21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62(Public Hearings) shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development maybe submitted.

2.Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64(Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as “appealable development” pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council

E. Maximum Number of Units Allowed. The following is the maximum number of accessory dwelling units and/or junior accessory dwelling units allowed on any residential lot. Unless specified below, only one (1) category may be used per lot.

1.**Conversion of Single-Unit Dwelling.** Only one (1) accessory dwelling unit or one (1) junior accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling, subject to the following:

a. The accessory dwelling unit or junior accessory dwelling unit is proposed:

i. Within the space of a proposed single-unit dwelling; or

ii. Within the existing space of an existing single-unit dwelling; or

iii. Within the existing space of an existing accessory structure, plus an addition beyond the physical dimensions of up to 150 square feet if the expansion is limited to accommodating ingress and egress.

b. The accessory dwelling unit or junior accessory dwelling unit will have independent exterior from the single-unit dwelling.

c. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction) of this Code.

2. **Detached/Attached on Lot with Single-Unit Dwelling.** One (1) detached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling. A detached, new-construction accessory dwelling unit may also be permitted in addition to any junior accessory dwelling unit that might otherwise be established on the lot under subsection (D)(1).

3. **Conversion of Multi-Unit Dwelling.** Multiple accessory dwelling units may be permitted on lots with existing multi-unit dwellings subject to the following:

a. The number of accessory dwelling units shall not exceed twenty five (25) percent of the existing multi-unit dwellings on the lot. For the purpose of calculating the number of allowable accessory dwelling units, the following shall apply: i. Previously approved accessory dwelling units shall not count towards the existing multi-unit dwellings;

ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one (1) accessory dwelling unit shall be allowed; and

iii. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels

b. The portion of the existing multi-unit dwelling that is to be converted is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

4. **Detached on Multi-Unit Lot.** Up to two (2) detached, new-construction accessory dwelling units may be permitted on a lot that has an existing multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.

F. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria.~~;~~

~~unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.~~

1. Minimum Lot Area. ~~A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be~~ There shall be no minimum lot area required in order to establish an accessory dwelling unit and/or junior accessory dwelling unit.

2. Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, except as noted below: ~~in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:~~

a. ~~No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit; provided, that the side and rear setbacks comply with required building codes~~. For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback.

b. ~~A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.~~ For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing provided setback. This provision shall only apply to accessory dwelling units and junior accessory dwelling units that are replacing existing structures within the same footprint and do not exceed the existing structure's size and/or height.

c. Newly constructed accessory dwelling units may provide a minimum setback of four (4) feet from all side property lines and rear property lines not abutting an alley.

3. Building Height. Detached accessory dwelling units shall not exceed one (1) story and a height of ~~fourteen (14)~~ sixteen (16) feet. ~~unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.~~ Notwithstanding the foregoing, an accessory dwelling unit constructed above a detached garage shall not exceed two (2) stories and the maximum allowable height of the underlying zoning district, provided all of the following criteria are met:

a. The accessory dwelling unit meets the minimum setbacks, as required by underlying zoning district; and

b. The principal dwelling unit complies with parking standards set forth in Section 21.40.040.

4. Unit Size. ~~The maximum size of an accessory dwelling unit shall not exceed seven hundred fifty (750) square feet of floor area, or fifty (50) percent of the existing floor area (excluding garage) of the principal unit, whichever is less. The minimum size of an accessory dwelling unit shall be at least that of an efficiency unit.~~

a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a two (2) bedroom unit. No more than two (2) bedrooms are allowed.

b. An attached accessory dwelling unit that is created on a lot with an existing single-unit dwelling is further limited to fifty (50) percent of the floor area of the existing dwelling.

c. Application of the size limitations set forth in subsections 21.48.200(E)(4)(a) and 21.48.200(E)(4)(b) above, shall not apply to accessory dwelling units that are converted as part of a proposed or existing space of a principal residence or existing accessory structure.

d. Application of Section 21.48.200(E)(4)(b) or other development standards, such as floor area limit or site coverage, might further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than 800 square feet.

e. The maximum size of a junior accessory dwelling unit shall be 500 square feet.

f. The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit.

5. Design. An accessory dwelling unit and/or junior accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.

~~6. Conversion of Space within Existing Structure. Notwithstanding the provisions of subsections (C)(1), (C)(2), (C)(3), (C)(4) and (C)(5) of this section, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required building codes, and if the accessory dwelling unit conforms with the following: a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure shall have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit;~~

~~b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power; and~~

~~c. The property is located within a residential zoning district that permits single-unit dwellings and no more than one dwelling unit exists on the property.~~

7. Fire Sprinklers. An accessory dwelling units and/or junior accessory dwelling unit shall not require ~~be required to provide~~ fire sprinklers ~~if they~~ so long as fire sprinklers are not required for the principal residence.

8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit and/or junior accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.

9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking) except as modified below:

a. No additional parking shall be required for junior accessory dwelling units.

b. A maximum of one (1) parking space shall be required for ~~an~~ each accessory dwelling unit.

c. ~~Such~~ When additional parking is required, the parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley or within the front setback, unless the driveway in the front setback has a minimum depth of twenty (20) feet.

d. No parking shall be required for:

i. Accessory dwelling units converted as part of a proposed or existing space of principal residence or existing accessory structure;

ii. Accessory dwelling units located within one-half mile walking distance of a public transit. For the purposes of this section "public transit" shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public; ~~with fixed route bus service that provides transit service at fifteen (15)minute intervals or better during peak commute periods;~~

iii. Accessory dwelling units located within an architecturally and historically significant historic district;

iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or

v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to remain ~~stay~~ in effect at a fixed location for at least ten (10) years and available to the public.

e. If an accessory dwelling unit replaces an existing garage, replacement spaces shall be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot asthe accessory dwelling unit, including, butnot limited to,as covered spaces, uncovered spaces, or tandem spaces, orby the use of mechanical automobile parking lifts.

G. Utility Connection.

1. Connection Required. All accessory dwelling units and junior accessory dwelling units shall connect to public utilities (or their equivalent), including water, electric, and sewer services.

2. Except as provided in subsection (G)(3) below, the City may require the installation of a new or separate utility connection between the accessory dwelling unit, junior accessory dwelling unit and the utility.

3. Conversion. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-unit dwelling, unless the accessory dwelling unit being constructed in connection with a new single-unit dwelling.

4. Septic Systems. If the principal dwelling unit is currently connected to an on-site wastewater treatment system and is unable to connect to a sewer system, the accessory dwelling unit or junior accessory dwelling may connect to the onsite wastewater-treatment system. However, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten (10) years.

H. Additional Requirements for All Accessory Dwelling Units and Junior Accessory Dwelling Units.

1. No Separate Conveyance. An accessory dwelling unit or junior accessory dwelling unit may be rented, but no accessory dwelling unit or junior accessory dwelling unit may be sold or otherwise conveyed separately from the lot and the principal dwelling (in the case of a single unit dwelling) or from the lot and all of the dwellings (in the case of a multi- unit dwelling). Sale of Units. The accessory dwelling unit shall not be sold separately from the principal dwelling.

2. Short-Term Lodging. The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of less than thirty (30) days or less.

3. Owner-Occupancy.

a. Accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any accessory dwelling unit that is permitted in accordance with this section between January 1, 2020 and January 1, 2025.

b. Junior accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the junior accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any junior accessory dwelling unit owned by a governmental agency, land trust, or housing organization. Number of Units Allowed. Only one accessory dwelling unit may be located on the lot.

~~4. Existing Development. A single-unit dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.~~

~~5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.~~

I. Deed Restriction and Recordation Required. Prior to the issuance of a building and/or grading permit for an accessory dwelling unit and/or junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements, prohibition on the separate conveyance, the approved size and attributes of the unit, and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit and/or junior accessory dwelling unit exists on the ~~property~~ lot.

J. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with California Government Code Sections 65852.2 and 65852.22. However, any accessory dwelling unit or junior accessory dwelling unit that is listed on the California Register of Historic Resources shall meet all Secretary of the Interior Standards, as applicable.

Section 21.70.020 (Definitions of Specialized Terms and Phrases)
"Accessory Dwelling Unit (Land Use)." See "Dwelling unit, accessory (land use)."
"Dwelling unit, accessory (land use)" means a dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site zoned for ~~a single-family~~ residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, or any successor statute.

2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code, or any successor statute.

Section 21.70.020 (Definitions of Specialized Terms and Phrases) and shall read as follows:
"Dwelling unit, junior accessory (land use)" means a dwelling unit accessory to and entirely contained within, an existing or proposed single-unit dwelling, and that:

1. Is no more than 500 square feet in size;

2. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-unit dwelling; and

3. Includes an efficiency kitchen.

"Junior Accessory Dwelling Unit (Land Use)". See "Dwelling unit, junior accessory (land use)".

B. CONSISTENCY ANALYSIS

IP Amendment Request

Under Sections 30513 and 30514(b) of the Coastal Act, the Commission shall certify a proposed amendment to an IP unless it does not conform with, or is inadequate to carry out, the provisions of the certified LUP. Thus, the standard of review for an amendment to the IP is the LUP. The proposed IP amendment must conform with, and be adequate to carry out, the provisions of the certified LUP.

Relevant LUP Policies

2.7-5. Administer the provisions of Government Code Section 65852. 2 relative to the development of accessory dwelling units to increase the supply of lower cost housing in the coastal zone and meet the needs of existing and future residents, while respecting the architectural character of existing neighborhoods and in a manner consistent with the LCP and any applicable policies from Chapter 3 of the Coastal Act.

2.8.1-2. Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

2.8.1-4. Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

2.8.3-1. Require all coastal development permit applications for new development on a beach or on a coastal bluff property subject to wave action to assess the potential for flooding or damage from waves, storm surge, or seiches, through a wave uprush and impact reports prepared by a licensed civil engineer with expertise in coastal processes. The conditions that shall be considered in a wave uprush study are: a seasonally eroded beach combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise; storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

2.8.7-3. Require applications for new development, where applicable [i.e., in areas of known or potential geologic or seismic hazards], to include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Require such reports to be signed by a licensed Certified Engineering Geologist or Geotechnical Engineer and subject to review and approval by the City.

2.8.8-2. Site and design new development to avoid fire hazards and the need to extend fuel modification zones into sensitive habitats.

2.9.3-2. Continue to require new development to provide off-street parking sufficient to serve the approved use in order to minimize impacts to public on-street and off-street parking available for coastal access.

2.9.3-3. Require that all proposed development maintain and enhance public access to the coast by providing adequate parking pursuant to the offstreet parking regulations of the Zoning Code in effect as of October 13, 2005.

4.4.3-4. On bluffs subject to marine erosion, require new accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with the predominant line of existing development in the subject area, but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, instability or other hazards.

4.4.3-5. Require all new bluff top development located on a bluff not subject to marine erosion to be set back from the bluff edge in accordance with the predominant line of existing development in the subject area. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools. The setback shall be increased where necessary to ensure safety and stability of the development.

4.4.3-18. Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principal structures and accessory improvements.

Policy 2.7-5 of the certified LUP encourages the development of ADUs in a manner that maintains consistency with the state ADU laws, the certified LCP policies (including coastal resource protection policies), and relevant Coastal Act Chapter 3 policies. In addition to complying with the state ADU development standards (including height, setback, and parking standards), ADUs and JADUs in the coastal zone must maintain public coastal access, maintain public coastal views, maintain adequate bluff-edge, canyon-edge, and ocean-front setbacks, not require bluff/shoreline protective devices, and not contribute to geologic, fire, and/or flooding hazards. Although the proposed amendment includes several revisions to bring the City's ADU ordinance into compliance with the state ADU laws, the amendment as submitted is not clear in its intent to remain consistent with the coastal resource protection policies found elsewhere in the LCP.

Therefore, **Suggested Modification #1** requires new ADUs/JADUs to conform to sections 21.28.040, 21.28.050, 21.30.100, and 21.30B of the IP. These sections guide coastal resource protection standards in bluff districts, canyon districts, areas with scenic or visual resources, and sensitive habitat areas. This modification ensures that new ADU/JADU development is protective of coastal resources. **Suggested Modification #4** acknowledges that greater ADU/JADU setbacks may be required if the ADU/JADU is subject to special coastal resource protections (as referenced in **Suggested Modification #1)**. This suggested modification also requires ADUs/JADUs in water-fronting lots to

comply with the IP Section 21.30.015 development standards listed for all water-fronting development. This modification ensures that new ADU/JADU development prioritizes the protection of coastal resources. **Suggested Modification #6** requires property owners to record a deed restriction and a waiver of future protection for ADUs/JADUs located in flood hazard areas. This modification ensures that the coastal resource protection policies run with the lot, not with an applicant.

As stated above, the proposed amendment intends to bring the City's ADU ordinance into compliance with the current state ADU laws. **Suggested Modification #3** clarifies that ADUs are allowed on multi-family lots as well as single-family lots and details the maximum number of ADU and JADUs that are allowed on single-family and/or multi-family lots. **Suggested Modification #4** removes bedroom count restrictions for ADUs and JADUs and sets the height limit that may be applied to ADUs at 16-ft, consistent with the state ADU laws. **Suggested Modification #5** again clarifies that ADUs are permitted on multi-family lots, consistent with the state ADU laws. These three modifications ensure that the proposed amendment is consistent with the current provisions of the state ADU laws.

In addition to the modifications listed above, **Suggested Modification #2** requires a CDP for all new ADUs/JADUs pursuant to IP Section 21.52 (Coastal Development Review Procedures), unless the development of an ADU/JADU is exempt or excluded from the CDP process pursuant to IP Section 21.52.045 (Categorical Exclusions). This modification ensures that the coastal development permit process is properly followed pursuant to the certified LCP. **Suggested Modification #7** makes a series of minor clarifying edits (i.e. word changes, sentence structure) throughout the text of the proposed element. These edits are intended to improve the text flow and grammar of the proposed amendment, and do not change the interpretation or intent of the proposed amendment.

Overall, the proposed amendment can only be found to be consistent with the LUP public access, development, and sensitive habitat policies if approved with the Commission's suggested modifications detailed above.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP conforms with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The Commission finds that, for the reasons discussed in this report, the proposed IP amendment Part C, with adoption of the suggested modifications listed in Section III of this report, is in conformity with and adequate to carry out the land use policies of the certified LUP. Likewise, the proposed LUP Amendment Part C, with adoption of the suggested modification listed in Section III of this report, is in conformity with and adequate to carry out the Chapter 3 policies of the Coastal Act. The Commission finds that approval of the LCP Amendment with suggested modifications will not result in significant adverse environmental impacts within the meaning of CEQA. Certification of the LCP if modified as suggested complies with CEQA because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the proposed LCP amendment if modified as suggested will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

Appendix A- Suggested Modifications to the Proposed IP Amendment

Certification of the LCP amendments listed above are subject to the following modifications. The City's proposed new LCP language is shown as underlined text and language proposed to be deleted is in ~~single strikethrough~~. The Commission's proposed new text added by suggested modification is shown in **bold and double-underline** and text suggested to be deleted is shown in ~~double strikethrough~~.

Suggested Modification #1: Modify IP Section 21.48.200(C) as follows:

C. Review Authority. Accessory dwelling units and junior accessory dwelling units shall be approved in any residential or mixed-use zoning district, subject to ~~a~~ Zoning Clearance **provided by the Director** and the following conditions: ~~in conjunction with single-unit dwellings in allresidential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:~~

1. There is an existing or proposed dwelling unit on the lot;
2. The dwelling conforms to the development standards and requirements foraccessory dwelling units and/or junior accessory dwelling units as provided in this section; and ~~established in the subsections below; and~~
3. **The dwelling conforms to the coastal resource protection development regulations of Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.100 (Scenic and Visual Quality Protection), or Chapter 21.30B (Habitat Protection);**
4. ~~The~~ Zoning clearance shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City **determines an ~~receives a completed~~** application **is complete**, unless either:
    a. The applicant requests a delay, in which case the sixty (60) day timeperiod is tolled for the period of the requested delay, or
    b. In the case of an application for an accessory dwelling unit and/or junioraccessory dwelling unit is submitted with an application to create a new single-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling application until the City renders a

decision on the new single-unit dwelling application.

~~3. Public and utility services including emergency access are adequate toserve both dwellings.~~

Suggested Modification #2: Modify Section 21.48.200(D) as follows:

D. Coastal Development Permits.

1. Application. The applicant shall obtain a Coastal Development Permit, pursuant to Chapter 21.52 (Coastal Development Review Procedures), unless otherwiseexempt or excluded from the coastal development permit process pursuant to Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) or Section 21.52.045 (Categorical Exclusions).

2. Hearing Exemption. All of the provisions of Chapter 21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 (Public Hearings) shallnot be required. Public notice shall be provided as required in Section 21.62.020,except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted. **Written comments received shall be reviewed by the Review Authority.**

3. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter21.64 (Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as “appealable development” pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

Suggested Modification #3: Modify Section 21.48.200(E) as follows:

E. Maximum Number of Units Allowed. The following is the maximum number of accessory dwelling units and/or junior accessory dwelling units allowed on any residential lot. **For the purposes of this section, multi-unit dwelling means a structure or development containing two or more dwelling units.** Unless **otherwise** specified below, only one (1) **of the categories described below in this subsection** ~~**category**~~ may be used per lot.

1. **Internal to a** ~~**Conversion of**~~ Single-Unit **or Multi-Unit** Dwelling **Category.** Only one (1) accessory dwellingunit or one (1) junior

accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling, subject to the following:

a. The accessory dwelling unit ~~**or junior accessory dwelling unit**~~ isproposed:

i. Within the space of a proposed single-unit or multi-unit dwelling; or

ii. Within the existing space of an existing single-unit or multi-unit dwelling;or

iii. Within the existing space of an existing accessory structure, plus an addition beyond the physical dimensions of the existing structure of up to 150 square feet if the expansion is limited to accommodating ingress and egress.

b. The junior accessory dwelling unit is proposed:

i. **Within the space of a proposed single-unit dwelling; or**

ii. **Within the existing space of an existing single-unit dwelling;**

c. The accessory dwelling unit or junior accessory dwelling unit will h~~a~~eindependent exterior **access** from the single-unit dwelling.

d. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15(Buildings and Construction) of ~~this~~ the Municipal Code.

2. Detached/Attached on Lot with Single-Unit **or Multi-Unit** Dwelling **Category.** One (1) detached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit **or multi-unit** dwelling. A detached, new-construction accessory dwelling unit may also be permitted in addition to any junior accessorydwelling unit that might otherwise be established on the lot under subsection ~~**(D)(1)(b)**~~ **(E)(1)(b)**.

3. **Conversion of Multi-Unit Dwelling Category.** Multiple accessory dwelling unitsmay be permitted on lots with existing multi-unit dwellings subject to the following:

a. The number of accessory dwelling units shall not exceed twenty five (25) percent of the existing multi-unit dwellings on the lot. For the purpose of calculating the number of allowable

accessory dwelling units,the following shall apply:

i. Previously approved accessory dwelling units shall not count towards the number of existing multi-unit dwellings;

ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one (1) accessory dwelling unit shall be allowed; and

b. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1)lot, regardless of the number of parcels. The portion of the existing multi-unit dwelling that is to be converted to an accessory dwelling unit is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

4. **Detached on Multi-Unit Lot Category.** Up to two (2) detached ~~**new-construction**~~ accessory dwelling units may be ~~**permitted**~~ **constructed** on a lot that has an existing multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.

Suggested Modification #4: Modify Section 21.48.200(F) as follows:

F. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirementsof the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria.~~; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.~~

1. Minimum Lot Area. ~~A minimum lot area of five thousand (5,000) squarefeet, excluding submerged land area, shall be~~ There shall be no minimum lot area required in order to establish an accessory dwelling unit and/or junior accessory dwelling unit.

2. Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, except as noted below: ~~in which they are located, except in caseswhere the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:~~

a. ~~No additional setback shall be required for an existing garage that~~

~~is converted to an accessory dwelling unit; provided, that the side and rear setbacks comply with required building codes.~~ For conversion of existingenclosed floor area, garage, or carport, no additional setback is required,beyond the existing provided setback**, unless a greater setback is needed to comply with Section 21.48.200(C)(3).**

~~b. A setback of no more than five feet from the side and rear lot lines shall berequired for an accessory dwelling unit constructed above the garage.~~ For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing setback provided ~~**setback**~~**, unless a greater setback is needed to comply with Section 21.48.200(C)(3).** This provision shall only apply to accessory dwelling units and junior accessory dwelling units that are replacing existing structures within the same footprint and do not exceed the existing structure's size and/or height.

c. ~~**Newly constructed**~~ **Attached and detached** accessory dwelling units may provide a minimum setback of four (4) feet from all side property lines and rear property lines notabutting an alley.

3. Building Height. Detached accessory dwelling units shall not exceed one story and a height of ~~fourteen (14)~~ sixteen (16) feet. ~~unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.~~ Notwithstanding theforegoing, an accessory dwelling unit constructed above a detached garage shall not exceed two (2) stories and the maximum allowable height of the underlying zoning district, provided all ~~**of**~~ the following criteria are met:

   a. The accessory dwelling unit meets the minimum setbacks, as required byunderlying zoning district; and

   b. The principal dwelling unit complies with parking standards set forth inSection 21.40.040.

4. Unit Size. ~~The maximum size of an accessory dwelling unit shall not exceed seven hundred fifty (750) square feet of floor area, or fifty (50) percent ofthe existing floor area (excluding garage) of the principal unit, whichever is less. The minimum size of an accessory dwelling unit shall be at least that of an efficiency unit.~~

   a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a two (2) or more bedroom unit. **~~atwo (2) bedroom unit. No more than two (2) bedrooms are allowed.~~**

b. An attached accessory dwelling unit that is created on a lot with an existing single-unit dwelling is further limited to fifty (50) percent of the floorarea of the existing dwelling.

c. Application of the size limitations set forth in subsections 21.48.200(E)(4)(a) and 21.48.200(E)(4)(b) above, shall not apply to accessory dwelling units that are converted as part of a proposed or existingspace of a principal residence or existing accessory structure.

d. Application of Section 21.48.200(E)(4)(b) or other development standards,such as floor area limit or site coverage, ~~**might**~~ **may** further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than 800 square feet **and the ADU shall not exceed a height of 16 feet measured from the finished grade as determined by the Director.**

e. The maximum size of a junior accessory dwelling unit shall be 500 squarefeet.

f. The minimum size of an accessory dwelling unit or junior accessorydwelling unit shall be at least that of an efficiency unit.

5. Design. An accessory dwelling unit and/or junior accessory dwelling unitshall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.

6. ~~Conversion of Space within Existing Structure. Notwithstanding the provisions of subsections (C)(1), (C)(2), (C)(3), (C)(4) and (C)(5) of this section,an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required building codes, and if the accessory dwelling unitconforms with the following:~~

   a. ~~For the purposes of this section, the portion of the single-unit dwelling or accessory structure shall have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the spaceinto an accessory dwelling unit;~~

   b. ~~No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, andpower; and~~

c. ~~The property is located within a residential zoning district that permitssingle-unit dwellings and no more than one dwelling unit exists on the property.~~

7. Fire Sprinklers. An **accessory dwelling unit~~s~~** and/or junior accessory dwelling unit shall not require ~~be required to provide~~ fire sprinklers ~~if they~~ so longas fire sprinklers are not required for the principal residence**; however, fire sprinklers are encouraged.**

8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit and/or junior accessory dwelling unit.For the purposes of this section, “passageway” means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of theaccessory dwelling unit.

9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking) except as modified below:

   a. No additional parking shall be required for junior accessory dwelling units.

   b. A maximum of one (1) parking space shall be required for ~~an~~ eachaccessory dwelling unit.

   c. ~~Such~~ When additional parking is required, the parking may be provided astandem parking and/or ~~may be~~ located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley or within the front setback, unless the driveway in the front setback has a minimum depth of twenty (20) feet.

   d. No parking shall be required for:

      i. Accessory dwelling units **~~converted~~ internal to ~~as part of~~** a proposed **principal residence** or converted from existing space of principal residence or existing accessory structure;

      ii. Accessory dwelling units located within one-half mile walking distance of a public transit. For the purposes of this section “public transit”shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public; ~~with fixed route bus service that provides transit service at fifteen (15) minute intervals or better during peak commute periods;~~

iii. Accessory dwelling units located within an architecturally andhistorically significant historic district;

iv. When on-street parking permits are required but not offered to theoccupant of the accessory dwelling unit; or

v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to remain ~~stay~~ in effect at a fixed location for at least ten (10) years and available tothe public.

e. If an accessory dwelling unit replaces an existing garage, replacement spaces shall be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessorydwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

10. Waterfront Development and Flood Hazard Areas.

a. The minimum top of slab elevation for new interior living areas, including areas converted from non-living areas, shall comply with the flood hazard and sea level rise protection standards of Section 21.30.015(D).

b. Any development in shoreline hazardous areas shall comply with Section 21.30.015(E)(2).

Suggested Modification #5: Modify Section 21.48.200(G) as follows:

G. Utility Connection.

1. Connection Required. All accessory dwelling units and junior accessory dwelling units shall connect to public utilities (or their equivalent), including water,electric, and sewer services.

2. Except as provided in subsection (G)(3) below, the City may require theinstallation of a new or separate utility connections between the accessory dwelling unit, junior accessory dwelling unit and the ~~**utility**~~utilities.

3. Conversion. No separate connection between the accessory dwelling unitand the utility shall be required for units created within a single-unit or

multi-unit dwelling**(s)**, unless the accessory dwelling unit being constructed in connection with a new single-unit dwelling **or multi-unit dwellings**.

4. Septic Systems. If the principal dwelling unit is currently connected to an on-site wastewater treatment system and is unable to connect to a sewer system, the accessory dwelling unit or junior accessory dwelling may connect tothe onsite ~~**waste water**~~ **wastewater** treatment system. However, the owner must include withthe application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten (10) years.

Suggested Modification #6: Modify IP Section 21.48.200(I) as follows:

H. Deed Restriction and Recordation Required.

1. Prior to the issuance of a building and/or grading permit for an accessory dwelling unit and/or junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements, prohibition on the separate conveyance, the approved size and attributes of the unit, and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit and/or junior accessorydwelling unit exists on the ~~property~~ lot.

2. For properties in flood hazard areas, the deed restriction shall also include notice to future owners that the unit is located within an area that may be subject to flooding or future flooding.

3. For properties located in low lying shoreline areas that may be subject to future sea level rise, the property owner shall also record a waiver of future shoreline protection in compliance with Section 21.30.015(E)(5);

Suggested Modification #7: Insert minor clarifying edits throughout the main text, with no substantive changes to the intent of the proposed amendment.