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# W13a

**Prepared May 21, 2021 for June 9, 2021 Hearing**

**To:** Commissioners and Interested Persons

**From:** Stephanie Rexing, North Central Coast District Manager  
Julia Koppman Norton, Coastal Planner

**Subject: City of Pacifica LCP Amendment Number LCP-2-PAC-20-0027-1  
(Accessory Dwelling Units/Reasonable Accommodations)**

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## SUMMARY OF STAFF RECOMMENDATION

The City of Pacifica proposes to amend its Local Coastal Program (LCP) to incorporate revised Accessory Dwelling Unit (ADU) and Reasonable Accommodation provisions in the LCP's Implementation Plan (IP). The first part of the proposed amendment provides for ADUs and Junior ADUs (JADU) in certain zoning districts where residential use is allowed, specifies the maximum numbers of ADUs and JADUs allowed per parcel, streamlines ADU/JADU review and permit processing, and provides ADU/JADU development standards (e.g., related to setbacks, parking, owner occupancy, etc.). In addition, the second part of the amendment would introduce a procedure to process requests from individuals with disabilities, or those developing housing for people with disabilities, for potential LCP flexibility in order to accommodate special needs (referred to as "reasonable accommodations").

In terms of the updated ADU and JADU provisions, these are mostly straightforward, and are designed to comply with recent changes to state housing law. A significant portion of the City's coastal zone consists of already developed residential areas with adequate public services that lend themselves to appropriate ADU development, including where ADUs can be developed without any significant coastal resource concerns. Where there are potential coastal resource issues (e.g., related to the protection of sensitive habitat, shorelines and beaches, public views), existing LCP policies will still apply and are generally adequate to appropriately safeguard such resources. The one area where some modifications are needed is in terms of ensuring that ADU development does not adversely impact on-street public parking availability in areas that are significant visitor destinations in the City, generally along the immediate shoreline. This is particularly the case in Pacifica which is a popular visitor destination, and where public parking options are limited, thus increasing the importance of on-street public parking spaces. Thus, staff worked with City staff to craft a set of tailored modifications to protect public access parking in these key visitor destination areas near the coast.

In terms of the proposed reasonable accommodations provisions, these are fairly common in LCPs. With one minor change to ensure that such accommodations do not result in significant coastal resource impacts, the LCP approach will be consistent with that of other local governments, and should serve to ably allow for reasonable accommodations for individuals with disabilities while still protecting coastal resources.

With respect to the City's proposals to explicitly exempt certain ADU development from CDPs, including in terms of proposed modifications associated with portions of the City's Commission-authorized Categorical Exclusion Order, two things are noted. The first is that in its LCP, the City cannot exempt development from CDPs that is not exempt under the Coastal Act and the Commission's regulations. As a result, those changes cannot be approved, and the existing LCP text must be retained. Second, any changes to a Categorical Exclusion Order cannot be processed through an LCP amendment. Rather, the City would need to propose changes to the Order itself through a separate process; a process that has its own rules and procedures, including requiring a two-thirds vote of the Commission to approve any changes thereto.

Therefore, staff recommends that the Commission approve the amendment with the suggested modifications, and City staff is generally in agreement with most of the changes suggested to the parking regulations for ADUs (included most of which are changes that City staff themselves suggested, and Commission staff is accommodating here to help alleviate any City concerns). The required motions and resolutions are found on page 4 below.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on March 17, 2021. The proposed amendment affects the LCP's Implementation Plan, and the 60-working-day action deadline was May 28, 2021, however on May 14, 2021 the Commission extended the action deadline and has until May 28, 2022 to take a final action on this LCP amendment.

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**EXHIBITS**

Exhibit 1: Proposed IP Amendment

Exhibit 2: Coastal Access Parking Area Maps

## 1. MOTIONS AND RESOLUTIONS

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

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

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

***Motion:*** *I move that the Commission reject LCP Implementation Plan Amendment LCP-2-PAC-20-0027-1 as submitted by the City of Pacifica, and I recommend a yes vote.*

***Resolution to Deny:*** *The Commission hereby denies certification of LCP Implementation Plan Amendment LCP-2-PAC-20-0027-1 as submitted by the City of Pacifica and adopts the findings set forth below on grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified LCP Land Use Plan. Certification of the Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment as submitted.*

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

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

***Motion:*** *I move that the Commission certify LCP Implementation Plan Amendment LCP-2-PAC-20-0027-1 as submitted by the City of Pacifica if it is modified as suggested in this staff report, and I recommend a yes vote.*

***Resolution to Certify:*** *The Commission hereby certifies LCP Implementation Plan Amendment LCP-2-PAC-20-0027-1, if modified as suggested, and adopts the findings set forth below on grounds that the Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified LCP Land Use Plan. Certification of the Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Amendment on the*

*environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

## 2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP Implementation Plan amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Pacifica accepts the suggested modifications within six months of Commission action (i.e., by December 9, 2021), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~single cross-out~~ and single underline format denotes proposed text to be deleted/added by the City. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

- 1. All existing certified IP language shall be retained for IP Sections 9-4.4303(h), 9-4.4303(h)(2)(v), and 9-4.4303(i)(2), and the City's proposed changes shall be omitted.**
- 2. Modify IP Section 9-4.452 to add the following definition and adjust the subsequent numbering accordingly:**

*(d) "Coastal access parking area" shall mean the area identified on the IP's Coastal Access Parking Area Map.<sup>[1]</sup>*

- 3. Modify IP Section 9-4.453(c)(6) by adding the following language:**

*Landscaping. A detached accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for a detached accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. Paving shall only be allowed on a driveway and pathways, except that paving may be allowed to the minimum extent necessary to create a required off-street parking space for an accessory dwelling unit area as provided in subsection (h) of this section.*

- 4. Modify IP Section 9-4.453(d)(6) by adding the following language:**

*Landscaping. An attached accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an attached accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. In addition, the front setback shall be landscaped and adequately maintained. Paving shall only be allowed on a driveway and pathways, except that paving may be allowed to the*

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<sup>1</sup> See Exhibit 2.

minimum extent necessary to create a required off-street parking space for an accessory dwelling unit as provided in subsection (h) of this section.

**5. Modify proposed changes to IP Section 9-4.453(h) as follows:**

(1) Parking for An accessory dwelling unit shall be provided as follows:

(i) Outside of the coastal access parking area, an accessory dwelling unit shall require one off-street parking space per accessory dwelling unit or per bedroom, whichever is less.

(ii) Within the coastal access parking area, an accessory dwelling unit shall require one off-street parking space per accessory dwelling unit.

(iii) No parking shall be required for an accessory dwelling unit ~~which is a studio unit without a bedroom, or for an accessory dwelling unit~~ described in subsection (6) of this subsection.

(2) ~~(4)~~ Off-street parking provided for an accessory dwelling unit may be covered or uncovered, and shall comply with the minimum dimensional requirements for ninety (90) degree compact parking spaces set forth in Section 9-4.2817 (Design standards for parking areas), including any space or spaces located within a garage. The minimum vertical clearance for any parking space shall be seven (7') feet.

(3) Off-street parking provided for an accessory dwelling unit shall meet the standards in Section 9-4.2814 (Surfacing of parking areas).

(4) ~~(2)~~ Off-street parking provided for an accessory dwelling unit may be configured in setback areas ~~except where expressly stated otherwise in this subsection.~~

(i) A required off-street parking space for an accessory dwelling unit may be allowed in any configuration provided in this subsection.

(aa) Within a driveway that conforms to the standards in Section 9-4.2813 (Access to parking facilities) except that parking for an accessory dwelling unit shall not be located within a common driveway serving more than one dwelling unit.

(ab) ~~(3)~~ Tandem parking, either within a garage or within a driveway conforming to the standards in Section 9-4.2813 (Access to parking facilities), shall be permitted.

(ac) By the use of a mechanical automobile parking lift. A mechanical automobile parking lift shall be located within a garage, or else shall be located behind the minimum front, side, and rear setbacks for accessory structures in the underlying zoning district, as long as the mechanical automobile parking lift does not impact coastal views.

(ad) “Swing” type parking. Approval of a site development permit shall not be required to authorize “swing” type parking for an accessory dwelling unit as permitted by this subsection.

(i) “Swing” type parking shall mean a type of off-street parking space that abuts and is perpendicular to a driveway conforming to the standards contained in Article 28 of this chapter. The design standards for a “swing” type parking space providing the required off-street parking for an accessory dwelling unit or junior accessory dwelling unit shall be as provided in this article. Approval of a site development permit shall not be required to authorize “swing” type parking for an accessory dwelling unit as permitted by this subsection.

(ii) A “swing” type parking space shall not be considered part of a driveway for purposes of maximum driveway width standards contained in Article 28 of this chapter.

(iii) The existing or shared driveway used to access a “swing” type parking space shall comply with the standards in Section 9-4.2813 (Access to parking facilities).

(iv) A “swing” type parking space shall be accessed from an existing or shared driveway only.

(v) The driveway approach used to access an existing or shared driveway from the street shall not be widened as part of the creation of a “swing” type parking space in order to preserve the maximum amount of available on-street parking.

(vi) Within a coastal access parking area, construction of a “swing” type parking space shall include a landscaping strip not less than three (3') feet in width along the entire length of the space. The landscaping strip shall contain plants not less than two (2') feet and not more than three (3') feet in height as measured from the street side. These required plants shall be installed to create a continuous buffer and shall be maintained in a healthful condition.

(vii) Outside of a coastal access parking area, construction of a “swing” type parking space shall not result in paving within any required front setback comprising more than 75-percent of the front setback area, including but not limited to paving associated with the “swing” type parking space, an existing or proposed driveway, and pathways.

(ae) Parallel parking space expansion from a driveway.

(i) “Parallel parking” shall mean a type of off-street parking space that abuts and is parallel to a driveway conforming to the standards contained in Article 28 of this chapter.

(ii) A parallel parking space shall not be considered part of a driveway for purposes of maximum driveway width standards contained in Article 28 of this chapter.

(iii) The existing or shared driveway used to access a parallel parking space shall comply with the standards in Section 9-4.2813 (Access to parking facilities).

(iv) A parallel parking space shall be accessed from an existing or shared driveway only.

(v) The driveway approach used to access an existing or shared driveway from the street shall not be widened as part of the creation of a parallel parking space in order to preserve the maximum amount of available on-street parking.

(vi) Construction of a parallel parking space shall not result in paving within any required front setback comprising more than 75-percent of the front setback area, including but not limited to paving associated with the parallel parking space, an existing or proposed driveway, and pathways.

(ii) An off-street parking space for an accessory dwelling unit that is not required as described in subsection (1) of this subsection may be allowed in any configuration provided in subsection (4)(i), except for the configurations detailed in subsections (ad) and (ae).

(5) If a garage which provides the required covered off-street parking space or spaces for a primary dwelling unit is converted in whole or in part into an accessory dwelling unit or is demolished to enable construction of an accessory dwelling unit, the required off-street parking space or spaces for the primary dwelling unit are not required to be replaced on site, except for a property located within the coastal access parking area where all required off-street parking spaces for uses on the site, including those attributable to accessory dwelling units, shall be accommodated on site. Any replacement off-street parking spaces shall conform to the same standards for required off-street parking for an accessory dwelling unit described in subsections (2) through (4) of this subsection, except for the configurations detailed in subsections (ad) and (ae) of subsection (4i), and may be provided in any configuration on the same site as the accessory dwelling unit, including as covered spaces, uncovered spaces, tandem spaces, or by the use of a mechanical automobile parking lift.

(6) No off-street parking shall be required for an accessory dwelling unit located outside of the coastal access parking area in any of the following circumstances:

(i) The accessory dwelling unit is located within one-half (1/2) mile of public transit as measured by a direct line from the location of the public transit to any portion of the lot on which the accessory dwelling unit is located.



(ii) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(iii) The accessory dwelling unit is a type described in subsection (d), (e), (f), or (g), or is described in subsection (c) and is eight hundred (800) square feet of floor area or less.

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

(v) When there is a car share vehicle located within one block of the accessory dwelling unit.

(vi) The accessory dwelling unit is a studio unit (i.e., a unit without a bedroom).

**6. Modify proposed changes to IP Section 9-4.455(c) as follows:**

Nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Section 30000 et seq. of the Public Resources Code) or the City's certified local coastal plan, except that the Planning Director shall consider a coastal development permit application for an accessory dwelling unit or a junior accessory dwelling unit administratively without a public hearing in accordance with the procedures for processing an administrative coastal development permit contained in Section 9-4.4306.

(1) The provisions of Article 43, Coastal Zone Combining District, shall not apply to the construction of accessory dwelling units or junior accessory dwelling units that do not meet the definition of "development" as defined in Section 9-4.4302(z).

(2) For purposes of making the findings required for approval of an administrative coastal development permit, the development standards for an accessory dwelling unit provided in Section 9-4.453 and for a junior accessory dwelling unit provided in Section 9-4.454, shall be considered the minimum development standards. The Planning Director may require more stringent development standards of an accessory dwelling unit or junior accessory dwelling unit in relation to any or all of the minimum development standards, including but not limited to standards addressing height and setbacks, if determined necessary to make the findings for approval of an administrative coastal development permit as provided in Article 43, Coastal Zone Combining District.

**7. Modify proposed changes to IP Section 9-4.5107(d) as follows:**

(5) That the requested reasonable accommodation would not constitute a fundamental alteration of the City's land use or zoning regulations, policies, procedures, or practices, including the Local Coastal Program, as applicable; ~~and~~

*(6) That the requested reasonable accommodation would not have significant adverse impacts on coastal resources; and*

*(7) ~~(6)~~ That the requested reasonable accommodation ...*

### 3. FINDINGS AND DECLARATIONS

#### **A. Description of Proposed LCP Amendment**

The proposed LCP amendment would incorporate regulations and refine accessory dwelling unit (ADU), including junior accessory dwelling unit (JADU), provisions to comply with changes to state housing law over the span of the last few years (including changes established by Assembly Bill 2299 and Senate Bill 1069, which took effect on January 1, 2017; Assembly Bill 494 and Senate Bill 229, which took effect on January 1, 2018; and Assembly Bills 68 and 881, and Senate Bill 13, which all took effect on January 1, 2020), collectively referred to as the ADU laws. As most recently updated in 2020, the ADU laws authorize local governments to establish ordinances regulating ADUs and to establish minimum requirements for local government ADU regulations that, in general, are designed to streamline the process of review and approval of ADUs in order to alleviate severe housing shortages throughout California.

The primary proposed LCP changes identify allowable zoning districts for ADUs, set maximum ADU numbers per parcel, streamline ADU review and permit processing, and set ADU development standards (e.g., for requirements related to setbacks, parking, owner occupancy, etc.). ADUs are proposed to be permitted on any site zoned for residential use as a permitted use, or any site zoned for commercial use which authorizes residential use as a permitted use or for which a permit has been issued to authorize a residential use, and which includes a proposed or existing single-family dwelling or an existing multi-family dwelling. More specifically, the IP amendment provides that: on a parcel zoned for residential use with an existing or proposed single-family dwelling on the site, one ADU and one JADU are permitted. On a parcel zoned for multi-family use with an existing multi-family dwelling on the site, one ADU or an amount of ADUs up to 25% of the existing number of units on the site are allowed, whichever is greater, if the ADU is contained within the portion of the existing multi-family dwelling that is not already used as livable space. Alternatively, on a parcel zoned for multi-family use with an existing multi-family dwelling on the site, two detached ADUs are permitted.

In terms of permitting, the City proposes to modify the LCP's CDP exemption provisions, including those associated with Categorical Exclusion Order E-94-1 (authorized by the Commission in 1994),<sup>2</sup> in order to allow some ADU development to

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<sup>2</sup> Among other things, the Order allows for certain residential development located outside of the CDP appeal area (i.e., the area within which City CDP decisions can be appealed to the Commission) to be developed without the requirement for a CDP, provided such development otherwise meets certain specific criteria.

proceed without required CDPs. All other proposed ADU development would require a CDP, and the City proposes to process administrative CDPs in such cases.<sup>3</sup>

The amendment also proposes numerous development standards for ADUs (including related to stay duration, owner requirements, nonconforming regulations, setbacks, height, lot coverage, size, and parking). ADUs are required to have 30-day minimum rental terms, and owner-occupancy is not required. A certificate of occupancy must be issued for the primary dwelling unit on a site before a certificate of occupancy is issued for the ADU. The amendment proposes that ADUs may be permitted on nonconforming parcels or attached to a nonconforming primary dwelling unit without being required to correct the nonconformities or receive a variance permit, as long as the ADU allowed on the nonconforming parcel conforms with all LCP ADU requirements. In terms of setbacks, a 4-foot side and rear setback requirement for both attached and detached ADUs on single-family parcels is proposed; ADUs (attached and detached) greater than 800 square feet must be located at least 10 feet from other buildings on the site in question or on adjacent sites. If an ADU is proposed within the existing space of a single-family dwelling or in the same location and with the same dimensions of the existing structure, with no more than a 150 square-foot addition, the amendment proposes a 15-foot front setback and 4-foot side and rear setbacks. Similarly, JADUs that include a 150 square-foot addition to an existing structure and detached ADUs on multi-family parcels are proposed to have a 15-foot front setback and 4-foot side and rear setbacks. If an ADU or JADU is entirely within an existing structure, no setbacks are required.

For ADUs on sites with an existing or proposed single-family dwelling, the maximum height allowance is proposed to be 16 feet if the primary dwelling is equal to or less than 16 feet high or if the detached ADU is setback less than 5 feet from the side property line, 10 feet from the front property line, or 20 feet from the rear property line. For detached ADUs on sites with a multi-family dwelling, the maximum height allowance is proposed to be 25 feet or the height of the primary dwelling, whichever is less, or 16 feet if the ADU is located between the primary dwelling and the front property line or if it is located less than 20 feet from the rear property line. Lot coverage requirements are only proposed for ADUs greater than 800 square feet on parcels with single-family dwellings; if an ADU is greater than 800 square feet, the lot coverage requirements of the underlying zoning district would apply.

In terms of size, attached ADUs on single-family parcels are proposed to be a maximum of 850 square feet for a studio or 1-bedroom or no more than 50% of the floor area of the primary unit, whichever is greater, and a maximum of 1,000 square feet for a 2- or more-bedroom ADU or 50% of the floor area of the primary unit, whichever is greater. ADUs detached from single- or multi-family dwellings would be a maximum of 1,200-square feet, and JADUs would be a maximum of 500 square feet. If an ADU is

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<sup>3</sup> Under the LCP, the City Planning Director can approve a CDP without a public hearing, but still subject to all other CDP application requirements (e.g., for noticing, appeals to the Commission, etc.).

proposed to be contained within an existing multi-family dwelling, area not currently used as livable space may be converted for the ADU.

With regard to CDP exemptions, the IP amendment proposes to exempt a variety of ADU projects within or attached to single-family residences and that meet the development standards and criteria outlined in the City's ADU ordinance from CDP requirements, unless there is a risk of adverse environmental impact. Meanwhile, detached ADUs that comply with the City's ADU ordinance would not be exempt and would require an administrative CDP. The City's currently certified exemption provisions for improvements to single-family residences generally tracks the Coastal Act's exemption for improvements to single-family residences in Title 14 California Code of Regulations (CCR) Section 13250, but these new proposed exemptions do not.

With regards to parking, the proposed amendment would require one off-street parking space per ADU or per bedroom, whichever is less, but in most cases would exempt ADU projects from meeting that criteria. Specifically, off-street parking would not be required for studio-unit ADUs; if an ADU is located within one-half mile of public transit; for ADUs located within an architecturally and historically significant historic district; when on-street parking permits are required but not offered to the occupant of the ADU; when there is a car share vehicle located within one block of the ADU; or if the ADU is less than 800 square feet and is attached to, detached from, or contained within a single-family dwelling or contained within an existing multi-family dwelling. Similarly, if a garage is converted into an ADU or demolished to construct a new structure for an ADU, the off-street parking spaces of the primary dwelling unit associated with the garage area would not be required to be replaced. The proposed amendment also includes a proposed discretionary process to determine when an exemption to off-street parking requirements associated with an ADU project might not be appropriate. Namely, the City proposes an evaluation of whether such exemption would have a detrimental impact on coastal access: if so, it could not be approved. In any case, all required off-street parking would be permitted to be covered or uncovered, and permitted in setback areas, within a driveway, and/or in tandem configurations.

In addition, the amendment would introduce a procedure to process requests for reasonable accommodations in accordance with federal and state fair housing laws. More specifically, the proposed reasonable accommodations provisions would provide individuals with disabilities or developers of housing for people with disabilities flexibility in the application of the LCP. The reasonable accommodation process would be applicable only to housing development; would require that new development within the coastal zone would remain subject to the thresholds for review and approval of a CDP per the Implementation Plan; would require notice to the public of the availability of a procedure to apply for reasonable accommodation; outlines the review process, request requirements, public noticing and timing standards; and would require findings be made to support such a request. The amendment would also outline an appeal process for reasonable accommodation requests and establishes that such requests may be determined by the City Zoning Administrator.

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

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

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

The proposed amendment is to the Implementation Plan (IP) of the certified Local Coastal Program (LCP) for the City of Pacifica. The standard of review for the proposed amendment to the Implementation Plan, pursuant to Section 30513 and 30514(b) of the Coastal Act, is whether the IP, as modified by the proposed amendment, would be in conformance with, and adequate to carry out, the provisions of the LCP Land Use Plan (LUP).

### **2. Public Access**

#### ***Applicable Land Use Plan Policies***

The City's LUP contains objectives and policies designed to protect and provide for sufficient public access, public access parking, and coastal access opportunities, as well as to encourage lower cost visitor and recreational facilities. These policies include:

***LUP Policy 3, Coastal Act 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: (a) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (b) Adequate access exists nearby; or (c) Agriculture would be adversely affected.

***LUP Policy 25, Coastal Act Section 30252.*** The location and amount of new development should maintain and enhance public access to the coast by: ... (a) Providing adequate parking facilities or providing substitute means of serving the development with public transportation.

***LUP Access Component Policy 3, Coastal Act Section 30001.5(c).*** Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

***LUP Policy 5, Coastal Act Section 30213.*** Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible, provided.

#### ***Consistency Analysis***

Pacifica's LUP requires that public access to the shoreline and along the coast be provided, maximized, maintained, and enhanced, including through the provision of adequate parking and lower-cost visitor opportunities. Through the proposed amendments, parking requirements for ADUs would be relaxed in terms of how parking can be accommodated onsite (e.g., in setback areas, on a driveway, and tandem), and in terms of when off-street parking would not be required (e.g., when a garage is converted to an ADU, for studio-unit ADUs, and for proposed ADUs located one-half mile from public transit, within an architecturally and historically significant district, when on-street parking permits are required but not offered to the occupant of the ADU, when there is a car share vehicle located within one block of the ADU, or if the ADU is less

than 800-square feet and is attached to, detached from, or contained within a single-family dwelling or contained within an existing multi-family dwelling).

As proposed, the consideration of whether ADU project parking needs may impact public access parking near the shoreline when off-street parking is not required, including the effect on lower cost visitor-serving and recreational opportunities along the coast, would be a discretionary decision as part of the CDP process. There are several issues with this proposed construct. Importantly, state ADU laws specify, and the City here proposes, that ADUs be considered ministerially (and without any discretion) and without a public hearing.<sup>4</sup> This setup has proven challenging for many local governments in the coastal zone when they consider whether proposed ADUs raise coastal resource impacts, including because many such evaluations are by their very nature discretionary.<sup>5</sup> Here, the parking determination would not only be discretionary, but it doesn't include any criteria for that review. It is possible, if not likely, that all projects would be determined to meet the test for exempting the need for required off-street parking. Thus, it is likely that the additional parking associated with ADU projects in cases in which the parking is not accommodated on-site will instead be pushed onto public streets which would reduce on-street parking in areas that provide visitor-serving and public recreation services, and thus adversely impact public access. The result will be that the public will be displaced from public on-street parking by ADU parking needs in those cases. This will have both impacts on public access parking at that location, but also cumulatively as ADU projects are developed in the City over time.

Fortunately, tools are readily available to help foster ADUs while simultaneously appropriately protecting public parking, including by being more specific up front at the LCP amendment stage as to where on-street parking issues such as this would most be problematic. In Pacifica's case, areas with potential public access parking concerns are generally limited to areas directly inland of prime shoreline visitor destinations where there is a limited supply of, and high demand for, on-street parking for coastal visitors, and areas where there are significant public viewsheds, or both. On this point, it is well known that Pacifica's shoreline is a magnet for coastal visitors from the San Francisco Bay Area, as well as from more inland areas, and its coastal zone is already strained to accommodate all of the public access it provides, including critically with respect to parking for those who are not fortunate enough to live there.

Pacifica's LCP Implementation Plan, like most LCPs, includes requirements that residential properties account for their parking needs on their own properties, often referred to as 'off-street' parking requirements (e.g., typically in garages, carports, covered parking, etc.). When an ADU is added to a residentially developed site, it typically brings with it additional off-street parking needs, including when existing garages, carports, or other designated parking locations are converted into ADUs. In

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<sup>4</sup> These requirements adhere to local governments, but do not extend to the Commission on appeal. If a CDP for an ADU project is appealed to the Commission, the Commission retains its normal public hearing process and its normal appellate and CDP discretion.

<sup>5</sup> Methods for addressing these issues ministerially include detailed yes/no checklists designed to take the discretion out of the decision.

such cases, there is a potential to reduce the availability of on-street parking for visitors if parking for the ADU and other on-site uses is not accommodated off-street. Recent updates to the ADU laws restrict circumstances when local governments can require that parking demand associated with ADU projects be accommodated onsite, including when it converts a space already used to accommodate site parking needs (e.g., garage conversion). In doing so, the Legislature clearly signaled that ADUs are an important public objective, and thus use of public streets to accommodate some, or all, of their private parking needs is appropriate. At the same time, although such additional private parking needs can often be accommodated on-street in inland areas not near prime visitor destinations, allowing all ADU parking on-street in prime coastal visitor-serving destinations can significantly reduce public visitor access at those prime coastal visitor-serving destinations, especially in the Pacifica context where a majority of shoreline visitor parking is on-street.

In terms of public access parking near these prime shoreline visitor destinations, it is important to ensure that there is adequate on-street public parking as a means of meeting Coastal Act and LCP public access provisions, particularly in terms of ensuring that no-cost and lower cost public access opportunities are both adequately provided for and ultimately maximized. This is particularly key given that most coastal visitors are not fortunate enough to live close to the coast, and coastal visitors often must drive long distances and either pay to park in private or public parking structures or locate street parking a reasonable distance from the beach in order to enjoy this public resource. In Pacifica, in particular, there are very few public parking lots and most coastal visitor parking is on-street. Thus, in order to ensure that public access to the coast is maximized, and not impaired, particularly for coastal visitors who must drive in and find parking in order to access the coast, and to avoid disproportionately impacting inland communities and their rights to coastal access, the proposed ordinance must ensure that it does not lead to a reduction in shoreline and beach-area on-street parking. Although the ADU laws limit the ability of local governments to require off-street parking to serve ADUs, these laws are also explicit in stating that they are not intended and they do not supersede or alter the effect or application of the Coastal Act. Thus, it is appropriate in cases like this to strike a balance between important statewide policies that encourage housing and construction of ADUs, and the equally important mandate in the Coastal Act to protect and maximize public access to the coast.

In this case, the City's proposed ADU ordinance is largely consistent with the requirements of the City's certified Land Use Plan. However, in some limited areas of the City's coastal zone there is a need for a more tailored approach to ADUs to ensure adequate protection of public access to the coast (here, public access parking) consistent with the City's certified LUP. Specifically, the proposed IP amendment will adversely impact public access in that allowing ADUs without adequate off-street parking 1) in areas proximate to the shoreline, and 2) in areas with significant visitor-serving and recreational opportunities, will mean that that parking will be shifted onto the streets where it will reduce already limited public access parking availability. The proposed IP amendment is therefore inconsistent with LUP requirements to protect and provide for sufficient public access, access parking, and coastal access opportunities, as well as to encourage lower cost visitor and recreational facilities.

Therefore, **Suggested Modifications 2, 3, 4, and 5** are necessary to clearly identify where such parking issues exist, and to require that off-street parking requirements are adhered to with ADU projects. With the recommended modifications, off-street parking would be provided for ADUs within the areas outlined in **Exhibit 2**, which include areas within one-quarter mile radius of the LCP's coastal access points that are in public ownership or have an easement for public access, bounded to the west by the ocean and east by Highway 1. These delineated areas were further modified to only include areas within that one-quarter mile buffer that are parking-constrained, provide significant coastal public access parking, and include pedestrian pathways to access such points. Put differently, parking restrictions are generally relaxed, consistent with the ADU laws, except in prime shoreline visitor destinations where increased demand for on-street parking could have a significant deleterious effect on coastal visitor access to the coast.

Specifically, within these areas the proposed amendment would be modified to require parking as follows within the mapped areas in **Exhibit 2**: JADUs within existing residential structures do not require additional spaces; for ADUs within areas shown in **Exhibit 2**, at least one off-street parking space is required for each ADU, and all off-street parking requirements associated with all other uses at the site shall be met onsite, including replacement parking spaces if any are removed to accommodate an ADU; for ADUs outside of the area shown in **Exhibit 2**, ADUs do not require an off-street parking space, if they meet state ADU law criteria, and ADU projects that convert off-street parking spaces in garages are not required to provide replacement off-street parking spaces.

The amendment with the suggested modifications thus strikes an appropriate balance that will encourage and streamline review of ADUs in the coastal zone while protecting public access to the coast in the City's unique coastal zone context, consistent with the City's certified LUP. Commission staff has consulted with the California Department of Housing and Community Development (HCD), and HCD indicated its support for modifying the City's ADU ordinances to accommodate parking in parking-impacted areas that provide coastal access parking in the coastal zone. Accordingly, the proposed IP amendment as modified is consistent with and adequate to carry out the LUP.

### **3. New Development**

#### ***Applicable Land Use Plan Policies***

Pacifica's certified LUP requires that new development be located in areas with adequate public services able to accommodate it and where it will not have significant adverse impacts on coastal resources. It also requires that new development minimize energy consumption and vehicles miles traveled, and that new or expanded public works be designed and limited to accommodate needs generated by allowed development. These policies include:

***LUP Policy 23, Coastal Act Section 30250(a).*** *New development except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where*



*such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

**LUP Policy 26, Section 30253.** *New Development shall do the following: ... (d) Minimize energy consumption and vehicle miles traveled.*

In addition, the LUP speaks to protect the existing availability of low and moderate income housing in the Coastal Zone as follows:

**LUP Page C-108.** *Land use regulations and housing programs shall be established which conserve the character and existing patterns of low and moderate income residential development existing in Pacifica's coastal neighborhoods. These conservation actions include regulations for condominium/stock cooperative conversions and could include such things as zoning changes; mixed commercial residential uses; established height limitations; regulate condominium conversions; develop new approaches to off-street parking requirements; encourage rehabilitation; and modify land uses as suggested in the Local Coastal Land Use Plan.*

**LUP Page C-108.** *Low and moderate income housing shall be protected from replacement by higher valued housing through such programs as subsidized rehabilitation loans (HELP), rezoning to discourage intensification of residential land use, promoting Section 8 rent subsidy and being receptive to any programs available now or in the future from the State or Federal governments which will preserve the existing housing stock and make it affordable to the very low and low income households in the community.*

**LUP Page C-109.** *Achieve a working balance of residential, visitor-serving and neighborhood-serving commercial activity which does not threaten affordable housing or create an enclave of such housing.*

### **Consistency Analysis**

Taken together, these LUP provisions generally direct new residential development to be located in existing developed areas with adequate public facilities and services (including water, sewer, and traffic capacity) where coastal resources will not be significantly impacted, and the policies require that low and moderate income housing be protected and provided in such a way as to protect the existing character and balance of housing in the coastal zone. In other words, the LUP encourages the concentration of development in existing developed areas that are able to accommodate it, including areas within Pacifica's coastal zone.

As the Commission is aware, the State is experiencing a significant housing crisis, and in particular an affordable housing crisis, and those issues are even more acute in the coastal zone. To address this critical need, the California Legislature has enacted a number of housing laws in the last several years that are designed to eliminate barriers to providing housing, and to help foster additional housing units – particularly critically needed affordable units – where they can be appropriately accommodated by adequate public services and where, in the coastal zone, they will not adversely affect coastal resources. Toward this end, the past several year’s legislative sessions included a series of changes to statewide housing law designed to facilitate more ADUs and affordable housing units. The overarching goals of the statewide ADU laws—to encourage and streamline approval of ADUs to alleviate housing shortages throughout the State—are consistent with LUP policies discussed above that encourage concentrating development in existing developed areas of the coastal zone in order to minimize impacts to coastal resources. However, the ADU laws have prompted a need for local governments to update their LCPs to incorporate new requirements for ADUs in the coastal zone. Importantly, the ADU laws continue to require that Coastal Act (and by extension LCP) coastal resource protection is not suspended when considering ADUs, and thus updated local government ADU provisions must continue to ensure coastal resource protection. In short, the goal of updating LCPs related to ADUs is to synthesize the ADU laws with the Coastal Act in a way that continues to protect coastal resources while also reducing and eliminating barriers to ADUs. With the proposed modifications, the City of Pacifica’s proposed LCP amendment will be substantially in compliance with the ADU laws.

Specifically, a significant portion of the City consists of already developed residential areas with adequate public services that can lend themselves to appropriate ADU development, both inside and, even more so, outside of the coastal zone. Within the coastal zone, there is also substantial area where ADUs can be developed without any significant coastal resource constraints. Thus, at a broad level, the proposed amendments should help achieve the objectives of the ADU legislation.

However, the City here also proposes to exempt certain types of ADU development from CDP requirements, including in terms of proposed modifications associated with portions of the City’s Commission-authorized Categorical Exclusion Order,<sup>6</sup> as described earlier. In terms of the exemptions, the City proposes to change the list of exempt projects to explicitly include certain types of ADUs and JADUs that satisfy the LCP’s requirements for ADUs/JADUs. However, the City cannot exempt anything that the Coastal Act and the Commission’s regulations do not. It may be that some ADU-related development would be exempt, but it must be held up against the LCP’s CDP exemption criteria, which derives and takes its statutory authority from the Coastal Act

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<sup>6</sup> The existing certified IP includes a reference to the types of development covered by the Order for which no CDP is required. It is to this section that the City proposes changes that are related to the Order. To be clear, however, this LCP section is not ‘stand alone’, but rather is merely a reference to what the Order covers. It is only the Order itself that actually excludes certain development from CDP requirements, and the LCP reference is only valid insofar as it tracks the Order. Thus, the City here is proposing changes to the LCP, but they are actually an attempt to change the Order.

and the Commission's regulations (see CCR Section 13250). In its LCP, the City cannot exempt development from CDPs that is not exempt under the Coastal Act and the Commission's regulations.<sup>7</sup> With respect to the certified Categorical Exclusion Order (No. E-94-1), the City cannot change the LCP reference unless the underlying Order had been changed.<sup>8</sup> It has not. As a result, those changes cannot be approved, and the existing LCP text must be retained.

The Commission understands that the City here is trying to facilitate ADUs with such proposed changes, and respects that objective, but exemptions are defined by the law, and the City here cannot in its LCP identify new exemptions that are not consistent with the Coastal Act and the Commission's regulations. Further, the existing Order currently allows second residential units that are located outside of the CDP appeal area to be developed without a CDP, provided they comply with IP Section 9-4.5 as it existed at the time of the order. As a result, the Order does already provide some relief in that respect, albeit tied to that earlier IP section.<sup>9</sup>

In terms of the reasonable accommodation provisions, the proposed language would establish a process by which a person with disabilities can request reasonable accommodation from the strict application of LCP standards if required to ensure equal access to housing. Typically, the accommodations involve such things as reducing the required front yard setback to allow construction of a ramp for wheelchair access. While generally LUP consistent, the proposed language lacks a provision to ensure that significant coastal resources are protected in such a process, similar to the manner in which this issue is addressed in other LCPs statewide. Thus, **Suggested Modification 7** requires a finding that the proposed reasonable accommodation would not have significant adverse effects on coastal resources.

As modified, the proposed IP amendments are consistent with and adequate to carry out the certified LUP.

#### **4. Other Coastal Resource Protections**

##### ***Applicable Land Use Plan Policies***

Pacifica's certified LUP has specific policy directives requiring protection for coastal resources, including for environmentally sensitive habitat areas (ESHAs), scenic and

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<sup>7</sup> The City's proposal to add the term "unless there is a risk of adverse environmental impact" cannot cure this problem as that is not what the law provides. Even if it did, it would again introduce discretion into what is required to be a ministerial process, with the same set of issues identified earlier that are associated with that.

<sup>8</sup> The procedures for Commission approvals of changes to categorical exclusion orders are different than the procedures for LCP amendments, including that CCR Section 13245 requires a two-thirds majority vote of appointed Commissioners, whereas only an affirmative vote of a majority of present Commissioners is needed to certify an LCP amendment.

<sup>9</sup> On this point and to be clear, the Order is explicit that section 9-4.5 as it was at the time of Order certification applies. If section 9-4.5 is amended, as the City proposes here, the exclusions from CDP requirements for such development would no longer be built into the Order.

visual qualities, and by minimizing the potential of adverse impacts from hazards on new development. These provisions include:

***LUP Policy 12, Coastal Act Section 30231.*** *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

***LUP Policy 18, Coastal Act Section 30240.*** *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. 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.*

***LUP Policy 24, Coastal Act Section 30251.*** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

***LUP Policy 26, Coastal Act Section 30253.*** *New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) 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. (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development. (d) Minimize energy consumption and vehicle miles traveled. (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

### **Consistency Analysis**

Taken together, these LUP policies require the protection of sensitive habitats and biological productivity, scenic and visual qualities, and by requiring development is sited

in a way that avoids and minimizes adverse impacts to these resources, while ensuring the safety of new development.

The proposed amendments provide for relaxed ADU development standards consistent with state law (e.g., reduced setbacks, increased floor area ratio (FAR), and streamlined permitting for ADUs). However, ADUs are still subject to more generalized constraints analyses based on coastal resource protection policies including, but not limited to, standards related to ESHA, wetlands, riparian corridors, significant public views, and coastal hazards, and the proposed amendment includes language clarifying that nothing in the proposed amendment is intended to supersede, alter, or lessen the effect of the Coastal Act or LCP, which means that the specific standards applicable to ADUs adopted herein are a floor and do not override or supersede LCP requirements for all new development, such as required buffers from ESHA or public view corridors (see proposed IP Section 9-4.455(c) in **Exhibit 1**). Using the same constraints analysis that is applied to other development when evaluating ADU projects that are not exempt from the requirement to obtain a CDP is appropriate, and ensures coastal resources are protected.

In short, and as with the parking and public access discussion above, ADUs proposed in areas that do have coastal resource constraints must be evaluated and appropriately sited to protect significant coastal resources, which is consistent with the statement in Government Code Section 65852.2(l) that provisions related to ADUs do not supersede, alter, or lessen the intended effect or application of the Coastal Act. The proposed amendment therefore appropriately facilitates ADUs while protecting coastal resources, consistent with and adequate to carry out the relevant LUP policies.

## **5. Conclusion**

In summary, the proposed IP amendment, as modified, would update the LCP's ADU provisions consistent with recent changes in statewide ADU law, while simultaneously protecting important coastal resources, particularly as it relates to public recreational access, consistent with the Coastal Act, the LCP's Land Use Plan, and the State's ADU laws. In other words, the ADU laws allow local governments to tailor their ADU provisions as necessary to protect coastal resources if required to be consistent with the Coastal Act (or a certified LCP). With the suggested modifications the LCP's ADU provisions will be appropriately tailored to protect coastal resources while also encouraging development of ADUs. Commission staff worked closely with City staff to accomplish this. In addition, the suggested modifications should help to increase ADU stock in the City's coastal zone, including in important coastal resource areas where more specific parking provision requirements are necessary and articulated to avoid coastal resource impacts to coastal access and specifically to address potential problems that could arise if ADU development were allowed to take over public recreational parking stock. Thus, the proposed amendment, as modified, will not adversely affect coastal resources and is consistent with and adequate to carry out the certified LUP.

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

Section 21080.9 of the California Public Resources Code—within the California Environmental Quality Act (CEQA)—exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of LCPs and LCP amendments. The Commission's LCP review and approval program has been found by the Secretary of the Natural Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP or LCP amendment action.

Nevertheless, the Commission is required, in approving an LCP or LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, 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 (see California Code of Regulations Title 14 Sections 13540(f) and 13555(b)).

The City's LCP amendment consists of an IP amendment. As discussed above, the IP amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the LUP. The Commission has, therefore, suggested modifications to the proposed IP to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP amendment into conformity with the LUP consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts, either individually or cumulatively, and the proposed IP amendment, as modified, conforms with CEQA.

## 4. APPENDICES

### **A. Substantive File Documents<sup>10</sup>**

- City analysis of Coastal Act consistency for ADU Ordinances
- City analysis of Coastal Act consistency with RA Ordinance
- Ordinance No. 851-C.S. and associated materials

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<sup>10</sup> These documents are available for review from the Commission's North Central Coast District office.

- Ordinance No. 825-C.S. and associated materials
- Ordinance No. 841-C.S. and associated materials
- Ordinance No. 854-C.S. and associated materials

**B. Staff Contact with Agencies and Groups**

- California Department of Housing and Community Development (HCD)