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Prepared July 30, 2021 for August 12, 2021 Hearing

To: Commissioners and Interested Persons

From: Dan Carl, Central Coast District Director
Susan Craig, Central Coast District Manager

**Subject: City of Pismo Beach LCP Amendment Number LCP-3-PSB-21-0037-1
(Accessory Dwelling Units)**

SUMMARY OF STAFF RECOMMENDATION

The City of Pismo Beach is proposing to modify the Implementation Plan (IP) component of the Local Coastal Program (LCP) to amend existing regulations and to refine accessory dwelling unit (ADU) provisions in response to recent changes to state housing law (including changes established by Assembly Bills 68 and 881, and Senate Bill 13, which all took effect on January 1, 2020). The primary proposed LCP changes provide for streamlined ADU review and permit processing, reduced impact fees, more lenient ADU development standards (e.g., for requirements related to minimum parcel size, property line setbacks, Junior ADUs (JADUs), owner occupancy, etc.), and allowing both an ADU and a JADU on a single residential parcel.

The proposed amendment generally provides for relaxed ADU (including JADU) development standards consistent with state law (e.g., reduced setbacks, excluding ADUs from lot coverage and density calculations, etc.), all of which is aimed at facilitating ADU construction in the City, including to help create more affordable housing opportunities. At the same time, the City also evaluated the expected effects of such ADUs in the City. This included recognizing important coastal resource values in the City's coastal zone, particularly important public views and the fact that the City is an important and extremely popular visitor destination. In terms of views, much of the City's residential stock lies seaward of, and generally at a lower elevation than, Highway 101. As a result, LCP planning over the years has focused on ensuring that development there not block or otherwise negatively affect the public's sweeping views of the shoreline and the Pacific Ocean. These views take in the Oceano Dunes and the Guadalupe-Nipomo dunes complex (the largest such intact coastal dunes system in the world, and a federally designated National Landmark), and both Point Sal and Point Conception farther to the south. Thus, the proposed amendment recognizes the importance of this incredible public view and ensures that existing LCP height limitations that apply to residential development in specific areas seaward of Highway 101 will also apply to ADU development in those areas. At the same time, the view limitation (i.e., a

15-foot height limit) should be able to accommodate both ADUs and public view protection at the scale envisioned for such development.

Similarly, the City's ADU planning process reflects that the City is a significant visitor destination, especially for visitors from California's Central Valley for whom Pismo Beach is the first coastal area they typically encounter along Highway 101 heading west and south. The City was particularly concerned that ADU-related development might lead to loss of visitor parking near shoreline access points, including because on-street parking in the public rights-of-way provides the vast majority of such public access parking in the City, and almost all visitors arrive via private automobile, including due to limitations on transit capable of fulfilling such users' needs (including transporting people, equipment, pets, etc. from far away locales to the beach in Pismo). Per the City's research, the need for such public access parking is particularly acute and critical in the areas within one-quarter mile walking distance of shoreline coastal accessways, including for beach/surf access. In light of this determination, and to protect public access and the City's visitor-oriented coastal economy, the City proposes to exempt JADUs from off-street parking requirements in all parts of the City, and to exempt ADUs from off-street parking requirements outside of key areas near coastal accessways (subject to state ADU law criteria), but to continue to require that ADU projects in these key coastal areas meet their parking needs on-site (and not in the public rights-of-way). This approach protects this key public access resource, especially no-cost public access visitor parking, helping those not fortunate enough to live in Pismo Beach to be able to visit and enjoy its beaches and other shoreline amenities. This will help to ensure true access for all without disproportionately impacting those visitors least able to afford a loss of such parking access, while the other changes are implemented to help facilitate ADU development in the whole City, including in these key coastal areas.

And finally, the amendment ensures that the rest of the LCP continues to apply to ADUs, including policies ensuring that ADUs are not constructed in a location that would require shoreline armoring, in environmentally sensitive habitat areas, in wetlands, or in areas where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime. In other words, the proposed regulations do not somehow supersede these key coastal resource planning provisions, just as state ADU laws do not supersede the Coastal Act (and by extension do not supersede the LCP here, as it draws its statutory authority from the Act).

In short, the City has carefully crafted ADU provisions that reflect the City's unique coastal zone attributes and, at the same time, relax standards for ADUs overall to help incentivize and facilitate their construction. The result is a set of provisions that should adequately protect coastal resources as required by the LCP's Land Use Plan (the standard of review for the proposed amendment) while leading to an increase in ADUs, and by extension an increase in affordable housing stock, in the City's coastal zone. City and Commission staff also coordinated with State Department of Housing and Community Development (HCD) staff on the proposed amendment, and HCD staff has not registered any objections to the amendment. Staff thus recommends that the Commission approve the City's proposed amendment as submitted. The motion and resolution are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on May 20, 2021. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline is August 16, 2021. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until August 16, 2021 to take a final action on this LCP amendment.

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EXHIBITS

Exhibit 1: Proposed IP Amendment

Exhibit 2: Map of Coastal Access Points

1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **certify the proposed LCP amendment as submitted**. The Commission needs to make one motion in order to act on this recommendation, and staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification 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 to Certify: *I move that the Commission reject Implementation Plan Amendment LCP-3-PSB-21-0037-1 as submitted by the City of Pismo Beach, and I recommend a **no** vote.*

Resolution to Certify: *The Commission hereby certifies Implementation Plan Amendment LCP-3-PSB-21-0037-1 for the City of Pismo Beach and adopts the findings set forth below on the grounds that the amended Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the amended Implementation Plan 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 amended Implementation Plan 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. FINDINGS AND DECLARATIONS

A. Proposed LCP Amendment Description

The proposed amendment would refine LCP ADU provisions in the City of Pismo Beach in response to recent changes to state housing law. Specifically, the following changes are proposed (see **Exhibit 1** for the proposed amendment text):

- Allow up to one ADU and one JADU on lots zoned to allow single-family residential use, and/or with existing or proposed detached or semi-detached single-family dwellings, with no minimum parcel size requirement and where such units shall not be counted toward the overall density of the lot.
- Allow up to two detached ADUs and allow conversion ADUs¹ for up to 25% of the multifamily units (e.g., if it was a 100-unit complex, then up to 25 conversion ADUs would be allowed) where multifamily residential dwellings (e.g., apartments, condominiums, or townhomes) exist or are proposed.

¹ A conversion ADU is defined as the conversion of any portion of a legal accessory structure, or any portion of a single-family dwelling, or any garage into an ADU (see proposed IP Section 17.117.030.D). Conversion ADUs in multi-family residential developments must be converted from areas not previously used as living space (including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages) (see proposed IP Section 17.117.040C.2.b).

- Prohibit ADUs and JADUs in mobile home subdivisions, mobile home parks, and recreational vehicle parks; in the R-1 zone above the intersection of Longview Avenue and Stratford Street in the Pismo Heights planning area;² and on slopes that exceed 20 percent.
- Require coastal development permits (CDPs) and building permits for all ADUs and JADUs.
- Other than exceptions to parking requirements (see below), require one off-street parking space for studio and one-bedroom ADUs, and two off-street parking spaces for two-bedroom ADUs, in addition to parking required for the primary residential unit. In the coastal zone, conversions of a garage to an ADU require those off-street parking spaces to be replaced onsite. No additional parking is required for JADUs. Required off-street parking may be provided as tandem parking on an existing driveway, and within minimum required setback areas unless infeasible due to site specific conditions or regional, topographical, or fire/life safety conditions.
- Off-street parking is not required if the ADU project site: (a) is located farther than one-quarter mile (1,320 feet) walking distance from a vertical access point to the beach, a segment of the Coastal Trail, a coastal park, or a coastal view area (see map in **Exhibit 2**); or (b) is located within one-half mile walking distance of public transit or within an architecturally and significant historic district; includes an ADU as part of the proposed or existing primary unit or accessory structure; is located in an area where on-street parking permits are required but not offered to the occupant of the ADU; or is located within one block of a carshare vehicle location.
- Prohibit short-term rental use within ADUs.
- Specify that ADUs can be sold separately from the primary residence if the ADU was developed by a qualified non-profit corporation and it meets all other provisions of California Government Code Section 65852.26
- Specify that the property owner is required to permanently reside on the parcel in either the primary unit, ADU, or JADU (unless the property is owned by a government agency, land trust, or public or nonprofit housing organization), except for those units permitted between January 1, 2020 and January 1, 2025.
- Specify a minimum JADU unit size for of 150 square feet, and a maximum JADU unit size of 500 square feet.
- Specify a minimum ADU unit size of 800 square feet, and maximum unit size for new construction ADUs of 850 square feet (studio or one-bedroom), 1,000 square feet

² ADUs would be prohibited in this area because there is a lack of secondary access or egress during emergency situations; for this reason, the City does not want to add additional residential dwellings in this area. This prohibition would affect only about 100 homes in the coastal zone in this area.

(two-bedroom), or 50% of the primary unit, whichever is smaller; and no maximum unit size for conversion ADUs.

- New construction ADUs are subject to environmental buffers and constraints under the Coastal Act.
- ADUs and JADUs are subject to the applicable height requirements of the zoning district, dependent upon unit configuration, but not less than sixteen feet unless otherwise identified in the City's LCP to protect coastal visual resources (i.e., an LCP 15-foot residential height limit applies in the Sunset Palisades subdivision area).
- Specify that ADUs and JADUs are required to meet lot coverage and maximum building area requirements, except that an ADU of up to 800 square feet shall be allowed, regardless of lot coverage and maximum building area limitations that might otherwise apply.
- Ensure that new construction ADUs are designed to be compatible with the primary residence on a site.
- Ensure that new development comply with all local, state, or federal regulations that apply to the property, including the applicable requirements of the LCP.

Again, see **Exhibit 1** for the proposed amendment text.

B. Proposed LCP Amendment Consistency Evaluation

Standard of Review

The proposed amendment affects the LCP's IP, and the standard of review for IP amendments is that they must conform with and be adequate to carry out the policies of the certified LCP Land Use Plan (LUP).

Applicable Land Use Plan Policies

A guiding principle of the City's LCP is the preservation and enhancement of visual resources "for the aesthetic enjoyment of both residents and visitors and the economic wellbeing of the community." Ocean views are of particular importance in the LCP, which explains that "[t]he feeling of being near the sea should be emphasized." The LCP includes several policies and standards regarding the protection of views, including:

LCP Policy D-3 Subdivision Design Criteria [in relevant part]... (b) Views Through the Site. Projects should be designed to preserve some of the significant views enjoyed by residents of nearby properties which could be blocked by the project. Especially on larger sites, portions of these views can be preserved by clustering the buildings or creating new public viewpoints.

LCP Policy D-23 U.S. 101 Freeway. [in relevant part] The U.S. 101 Freeway, also known as E1 Camino Real, is hereby designated as a Pismo Beach scenic highway. The portion of this highway within Pismo Beach provides travelers with the only

*ocean view between the Golden Gate Bridge (San Francisco) and Gaviota, a distance of over 300 miles. The scenic views include the City and ocean on one side and the Pismo Foothills on the other. To implement this policy the City shall:...(d). **Require that new commercial signs, sound walls and other new developments be modified in height, size, location or design so that existing "blue water" ocean views from U.S. Highway 101 will not be blocked, reduced or degraded;** . . . Exceptions will be allowed only for 1) residential or visitor serving commercial structures where no other use of the property is feasible, and 2) signs, utility structures, and public buildings where there is no feasible alternative and all appropriate mitigations measure are applied to minimize adverse visual impacts.(emphasis added)*

LCP Policy D-28 Visual Quality. [in relevant part] *Any new development along city-designated scenic highways should meet the following criteria: (a). **Development should not significantly obscure, detract from nor diminish the scenic quality of the highway.** In those areas where design review is required, or the protection of public views as seen from U.S. Highway 101 is an issue or concern, the City shall require by ordinance a site-specific visual analysis. Such analysis shall utilize story poles, photo montages, or other techniques as deemed appropriate in order to determine expected visual impacts, prior to approval of new development; documentation shall be retained for evaluation of permit conformance... (emphasis added)*

In addition, and mirroring the Coastal Act, the LUP is very protective of coastal public access, calling for both its protection and its enhancement. Applicable LUP public access policies include:

C-13 Parking. [in relevant part] *Parking for both residents and visitors shall be provided as part of new development. ... In-lieu fees may also be considered for residential uses in order to encourage ground floor, street facing residential dwellings. Parking shall be provided within the vicinity of the coastline for recreational uses. However, within the downtown area, day use parking for the beach shall primarily be located at the north or south end of downtown rather than at the pier. In order to assure that development projects will not adversely affect the availability of existing parking for shoreline access, an adequate quantity of on-site parking spaces to serve the full needs of the development shall be required, except as noted above for the downtown area. ... New development projects located within one-quarter mile of the beach or bluff edge shall be evaluated to assess their impact on the availability of parking for public access to the coast. **If a project would result in a reduction of shoreline access parking, the project may be required to provide additional parking spaces to accommodate public access.** [emphasis added]*

PR-2 Ocean and Beach are the Principal Resources. *The ocean beach and its environment is, and should continue to be, the principal recreation and visitor-serving feature in Pismo Beach. Oceanfront land shall be used for recreational and recreation-related uses whenever feasible.*

LCP Policy PR-26 Access Parking Area Required. *Parking, consistent with site constraints, shall be provided in conjunction with vertical and lateral access-ways wherever necessary to ensure the use of the access-way. Dedication shall be required for such parking when appropriate.*

Consistency Analysis

As the Commission is aware, the state has a housing crisis, and in particular an affordable housing crisis, and those issues are only more acute in the state's coastal zone. To address this critical need, the state 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 2019 legislative session included a series of changes to state housing law designed to facilitate more ADUs and affordable housing units. Those changes have triggered local governments in the coastal zone to update their LCPs to address the new ADU changes. Importantly, the changes in state law continue to explicitly 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 seamlessly synthesize the state ADU housing law changes with the Coastal Act in a way that continues to protect coastal resources while also reducing and eliminating barriers to ADUs. Here, the City of Pismo Beach has done just that with this proposed LCP amendment. Importantly, the City also worked with the California Department of Housing and Community Development (HCD), the agency charged with enforcing new state ADU laws, and HCD has not registered any objections to the proposed amendment.

In Pismo Beach, 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 outside of the coastal zone. And within the coastal zone, there is also substantial area where ADUs can be developed without significant coastal resource impacts. To this point, the proposed amendment generally provides for relaxed ADU (including JADU) development standards consistent with state law (e.g., reduced setbacks, excluding ADUs from lot coverage and density calculations, etc.), all of which is aimed at facilitating ADU construction in the City, including to help create more affordable housing opportunities. At a broad level, the proposed amendment should help achieve the objectives of state ADU legislation by making it easier to develop ADUs, thus incentivizing and facilitating their construction in the City. In areas where there are potential coastal resource issues, there are tools readily available to help foster ADU construction while simultaneously appropriately protecting those resources. For example, in Pismo Beach's case, there are certain areas where coastal resource issues may preclude ADUs, but these same issues would preclude *any* development in such areas (e.g., locations that would require shoreline armoring, in environmentally sensitive habitat areas, in wetlands, or in areas where the ADU's

structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime, etc.).³ The proposed amendment makes clear that this is the case for ADUs as well.

In terms of other potential coastal resource issues, the City also evaluated the expected effect of allowable ADUs in the City on such resources, including significantly, recognizing critically important public views provided in the City's coastal zone, and the fact that the City is an important and extremely popular visitor destination. In terms of views, much of the City's residential stock lies seaward of, and generally at a lower elevation than, Highway 101. As a result, LCP planning over the years has focused on ensuring that development there not block or otherwise negatively affect the public's sweeping views of the shoreline and the Pacific Ocean. These views take in the Oceano Dunes and the Guadalupe-Nipomo dunes complex (the largest such intact coastal dunes system in the world, and a federally designated National Landmark), and both Point Sal and Point Conception farther to the south. The proposed amendment recognizes the importance of this incredible public view and ensures that LCP development height limitations that apply to residential development in specific areas seaward of Highway 101 will also apply to ADU development in those areas. At the same time, the view limitation (i.e., a 15-foot maximum height) should be able to accommodate both ADUs and public view protection at the scale envisioned for such development.

Similarly, the City's ADU planning process reflects that the City is a significant visitor destination, especially for visitors from California's Central Valley for whom Pismo Beach is the first coastal area they typically encounter along Highway 101 heading west and south. The City was particularly concerned that ADU-related development might lead to loss of visitor parking near to shoreline access points, including because on-street parking in the public rights-of-way provides the vast majority of such public access parking in the City, and almost all visitors arrive via private automobile due to limitations on transit capable of fulfilling such users' needs (including transporting people, equipment, pets, etc., from far away locales to the beach in Pismo). This is particularly key given that most coastal visitors are not fortunate enough to live right by the coast, requiring them to drive and park to enjoy this public resource. In Pismo Beach there are very few public parking lots other than in the downtown area that is mostly commercial, and most coastal visitor parking is on-street in the public rights-of-way. Thus, to ensure that public access is not reduced, particularly for coastal visitors who must drive in and find parking 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 state housing law generally seeks to preclude local ordinances from requiring off-street parking to serve ADUs, it also explicitly requires

³ In other words, the proposed ADU regulations do not somehow supersede these key coastal resource planning provisions, just as state ADU laws do not supersede the Coastal Act (and by extension do not supersede the LCP here, as it draws its statutory authority from the Act).

compliance with the Coastal Act, and thus it is appropriate in cases like this to seek a balance between these two policies.

To this point, the City of Pismo Beach's LCP, like most LCPs, includes requirements that residential properties account for their parking needs on their own properties. This is 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 additional off-street parking needs, particularly when existing garages or carports are converted into ADUs. This has the potential to reduce the availability of on-street parking for visitors if the parking for the ADU and primary dwelling cannot be accommodated on site. The recent state housing law changes restricted the 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 that are not near prime coastal 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. This is especially true in the Pismo Beach context where much of the shoreline visitor parking is on-street.

Per the City's research, the need for such public access parking is particularly acute in the areas within one-quarter mile walking distance of shoreline coastal accessways, including for beach/surf access. In light of this determination, and to protect public access and the City's visitor-oriented coastal economy, the City proposes to exempt JADUs from off-street parking requirements in all parts of the City, and to exempt ADUs from off-street parking requirements for properties located more than one-quarter mile distance from coastal accessways (subject to state ADU law criteria), but to continue to require that ADU projects in the key coastal areas meet their parking needs on-site (and not in the public rights-of-way). This approach protects this key public access resource, especially no-cost public access parking, helping those not fortunate enough to live in Pismo Beach to be able to visit and enjoy its beaches and other shoreline amenities. This will help to ensure true access for all without disproportionately impacting those visitors least able to afford a loss of such parking access, while the other changes help to facilitate ADU development in the whole City, including in this area.

In short, the City has carefully crafted ADU provisions that reflect the City's unique coastal zone attributes, and, at the same time, relax standards for ADUs overall to help incentivize and facilitate their construction. The result is a set of provisions that should adequately protect coastal resources as required by the LUP at the same time as leading to an increase in ADUs, and by extension an increase in affordable housing stock, in the City's coastal zone. Thus, the proposed changes are consistent with and adequate to carry out the policies of the LUP and are approved and certified as submitted.

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. Instead, the CEQA responsibilities are assigned to the Coastal Commission; however, the Commission's LCP review and approval program has been found by the 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, conforms 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 that 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 of Pismo Beach's LCP amendment consists of an IP amendment. The City of Pismo Beach exempted the proposed amendment from environmental review (citing CEQA sections 15061(b)(3) and 15282(h)), finding that the proposed LCP amendment is not subject to CEQA because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The City determined that no possibility exists that the amendment may have a significant effect on the environment. This report has discussed the relevant coastal resource issues with the proposal and has addressed all comments received. All above findings are incorporated herein in their entirety by reference.

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, and the proposed IP amendment conforms with CEQA.