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# F 10b

**Prepared August 19, 2022 for September 9, 2022 Hearing**

**To:** Commissioners and Interested Persons

**From:** Dan Carl, Central Coast District Director  
Katie Butler, Coastal Planner

**Subject: City of Pismo Beach LCP Amendment Number LCP-3-PSB-22-0018-2 (St. Andrews Tract Setback Changes)**

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## SUMMARY OF STAFF RECOMMENDATION

The City of Pismo Beach (City) proposes to amend the Land Use Plan (LUP) component of its Local Coastal Program (LCP) to modify development standards related to residential front setbacks and second story setbacks in LCP Planning Area E (known as the St. Andrews Tract) in the Shell Beach area of the City, upcoast of downtown. Specifically, the amendment proposes to remove St. Andrews tract-specific standards that require existing residential development: a) to maintain existing on-the-ground front yard setbacks, and b) to include a minimum 10-foot setback from the 1st to the 2nd floor along the front elevation. Once removed, that would mean that the St. Andrews Tract would be subject to the same residential front setback and second story setback LCP provisions as all other residential development in the City.

The St. Andrews Tract is an essentially fully built-out residential neighborhood that consists of some 112 existing residences (mostly single-family with some multi-family). The City indicates that existing front setbacks in this area range from 8 to 51 feet, with an average of 20-25 feet, and that most homes are single story. Under the existing LCP provisions in question, when these residences are modified (through remodel, addition, redevelopment, or complete replacement), they must retain the front setback of the existing residence. And if the modifications include second story elements, the second story must be stepped back at least 10 feet from the first floor along the front elevation. If these unique front yard standards were deleted, as proposed in this LCP amendment, existing LCP provisions would require at least a 20-foot front setback and would require that second floors be limited to no more than 80 percent of the first-floor area (where the associated setback is required to be at least in part on the street side of the house unless that is infeasible). All other applicable LCP provisions would continue to apply (e.g., related to neighborhood compatibility, massing, articulation, lot coverage, exterior materials, roof and window form and style, etc.).

The Coastal Act protects the scenic and visual qualities of coastal areas, including in terms of the ways that residential development might affect public views. As evidenced

by the City's analysis, average existing residential front setbacks in the St. Andrews Tract essentially map to the LCP minimum 20-foot setback already, so removal of the requirement that these residences maintain existing on-the-ground front yard setbacks upon redevelopment or additions would have a negligible effect on the overall development pattern and public views through the neighborhood. Similarly, removal of the 10-foot stepback from the 1st to the 2nd floor would also have negligible effects given that the LCP's existing 80% second floor area requirement (which would govern absent the St. Andrews Tract-specific requirement) also dictates second story stepbacks (albeit not necessarily in the same uniform street-side manner). The proposed change should not result in adverse impacts to coastal resources, including visual resources or public views, or other coastal resources, nor would it significantly change the degree of coastal resource protection in the St. Andrews Tract. Again, this is an essentially built-out neighborhood, and there is little to suggest the need for the additional specificity regarding residential front yards. The LCP's standard front yard provisions (as well as other applicable LCP provisions) are adequate to address any coastal resource concerns that may be engendered by such residential development in this area, including with respect to public views, public access, and community character.

Staff thus recommends that the Commission find the proposed amendment consistent with and adequate to carry out Chapter 3 of the Coastal Act, and that the Commission approve the 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 13, 2022. The proposed amendment affects the LCP's LUP only, and the 90-working-day deadline for the Commission to take action on it is September 21, 2022. Thus, unless the Commission extends the action deadline (it may be extended by up to one year by the Commission per Coastal Act section 30517), the Commission has until September 21, 2022, to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: I move that the Commission extend the time limit to act on City of Pismo Beach Local Coastal Program Amendment Number LCP-3-PSB-22-0018-2 to September 21, 2023, and I recommend a yes vote.

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**EXHIBITS**

Exhibit 1: Location Maps

Exhibit 2: City Resolution and Proposed LUP Amendment

## 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 **YES** vote on the motion below. Passage of this motion will result in certification of the Land Use 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 appointed Commissioners.

***Motion to Certify:*** *I move that the Commission certify Land Use Plan Amendment LCP-3-PSB-22-0018-2 as submitted by the City of Pismo Beach, and I recommend a yes vote.*

***Resolution to Certify:*** *The Commission hereby certifies Land Use Plan Amendment LCP-3-PSB-22-0018-2 for the City of Pismo Beach and adopts the findings set forth below on the grounds that the amended Land Use Plan conforms with, and is adequate to carry out, the policies of Chapter 3 of the Coastal Act. Certification of the amended Land Use 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 Land Use 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 City of Pismo Beach (City) proposes to amend the Land Use Plan (LUP) component of its Local Coastal Program (LCP) to modify development standards related to residential front setbacks and second story setbacks in LCP Planning Area E (known as the St. Andrews Tract) in the Shell Beach portion of the City, upcoast of downtown (see **Exhibit 1**). Specifically, the amendment proposes to remove St. Andrews tract-specific standards that require existing residences, upon redevelopment or additions: a) to maintain existing on-the-ground front yard setbacks, and b) to include a minimum 10-foot setback from the 1st to the 2nd floor along the front elevation. Once removed, that would mean that the St. Andrews Tract would be subject to the same residential front setback and second story setback LCP provisions as all other residential development in the City, including the requirement for a minimum 20-foot front setback and the requirement that second floors be limited to 80 percent of the first-floor area (where the associated setback is required to be at least in part on the street side of the house unless that is infeasible).<sup>1</sup> See **Exhibit 2** for the proposed amendment text.<sup>2</sup>

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<sup>1</sup> Per IP Sections 17.102.020.A and 17.105.135.A.

<sup>2</sup> The Commission notes that this amendment was preceded by a City CDP application involving a home in the St. Andrews Tract that did not meet the Tract-specific residential setback/stepback standards, but would meet the LCP's otherwise applicable residential setback/stepback standards. The City approved that CDP subject to a condition that the LCP be amended in the way proposed by the City here so that

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

### ***Standard of Review***

The proposed amendment affects the LCP's LUP, and the standard of review for LUP amendments is that they must conform with and be adequate to carry out the policies of Chapter 3 of the Coastal Act.

### ***Applicable Coastal Act Policies***

The proposed amendment affects residential development in LCP Planning Area E of the City of Pismo Beach. Applicable Coastal Act policies include Section 30250, which protects coastal resources generally when such development may be undertaken, and Section 30251, which protects public views.

**Section 30250:** *(a) New residential, commercial, or industrial 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. ...*

**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. ...*

### ***Consistency Analysis***

The St. Andrews Tract is a residential neighborhood that is essentially fully built out. It is located in the Shell Beach area of the City upcoast of downtown, and it includes some 112 existing residences (mostly single family with some multi-family). The City indicates that existing front setbacks in this area range from 8 to 51 feet, with an average of 20-25 feet, and that most homes are single story. Under the existing LCP provisions in question, when these residences are modified (through remodel, addition, redevelopment, or complete replacement), they must retain the existing front setback. And if the modifications include second story elements, the second story must be stepped back at least 10 feet from the first floor along the front elevation.<sup>3</sup> If these

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the project could become LCP consistent on that point. The City was informed by Commission staff before taking such a CDP action that it cannot condition a CDP decision on an LCP amendment, but rather that any CDP decision must be made in relation to the certified LCP in effect at the time. Notwithstanding that advice, the City approved the CDP anyway (but has not yet sent notice of that action to the Commission, and that item has not run its required Commission appeal period). Such City action, on this point at least, is LCP inconsistent. When the LCP is amended, the City will need to amend that prior CDP action (or take a new CDP action) for any such action to be LCP-consistent on this point. In any case, none of such related City CDP process has any bearing on the substantive issues presented by the proposed LCP amendment, and the Commission here evaluates the proposed amendment against the Coastal Act alone.

<sup>3</sup> These front yard residential standards were added to the LCP as part of a larger LCP update in 2012. The City indicates that the precise genesis of such standards is unclear, including as they are unique only

unique front yard standards were deleted, as proposed in this LCP amendment, the LCP would require at least a 20-foot front setback and would require that second floors be limited to 80 percent of the first-floor area (where the associated stepback is required to be at least in part on the street side of the house unless that is infeasible).<sup>4</sup>

Coastal Act Section 30250 directs that residential development generally shall not have significant adverse effects on coastal resources, and Coastal Act Section 30251 protects the scenic and visual qualities of coastal areas from public view-impacting development. In this case, the proposed change will not result in adverse impacts to coastal resources, including visual resources or public views, or other coastal resources, nor would it significantly change the degree of coastal resource protection in the St. Andrews Tract. Again, this is an essentially built-out neighborhood, and there is little to suggest the need for the additional specificity regarding residential front yards. The LCP's standard front yard provisions (as well as other applicable LCP provisions) are adequate to address any coastal resource concerns that may be engendered by such residential development in this area, including with respect to public views, public access, and community character. In fact, as evidenced by the City's analysis, average existing setbacks essentially map to the LCP minimum 20-foot setback already, the 80% second floor area requirement (which would govern absent the St. Andrews Tract-specific stepback requirement) requires second story stepbacks (including along the street side), and the expected effect over time of the proposed changes on coastal resources would be negligible.

As such, the proposed changes should not result in significant coastal resource impacts from residential development in the St. Andrews Tract neighborhood. The Commission thus finds the proposed amendment consistent with and adequate to carry out Chapter 3 of the Coastal Act.

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

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the City found that there is no substantial evidence, in light of the whole record, that the amendment may have a significant effect on the environment, and adopted a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CCR Section 15000 et seq.).

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to the St. Andrews Tract and to nowhere else in the City, and City staff suggests that it may have been at the request of a St. Andrews Tract resident at the time. In any case, the 2012 LCP update included no specific analysis or discussion of these changes.

<sup>4</sup> In either case, all other applicable LCP provisions would also apply (including standards related to neighborhood compatibility, massing, articulation, lot coverage, exterior materials, roof and window form and style, etc.).

The Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal and has concluded that approval of the proposed amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA. Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).