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STAFF REPORT CDP APPLICATION

Application Number: A-3-STC-22-0018

Applicant: City of Santa Cruz

Project Location: Public streets, parking lots, and other rights-of-way within the City of Santa Cruz coastal zone

Project Description: Prohibit parking of oversized vehicles citywide on public streets, parking lots, and other rights-of-way between midnight and 5am; provide alternative overnight parking areas and services for such displaced vehicles and their inhabitants; and implement related measures (e.g., signage, striping, outreach, permits, enforcement, etc.)

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The City of Santa Cruz is requesting a coastal development permit (CDP) to prohibit oversized vehicle parking (i.e., vehicles that meet or exceed 20 feet in length and/or are wider than 7 feet and taller than 8 feet) citywide¹ from midnight to 5am, to provide alternative overnight parking areas and services for such displaced vehicles and their occupants (“safe parking”), and to implement related measures (such as signage, striping, outreach, permits, and enforcement). The City indicates that the proposal is meant to address a broad array of social issues (i.e., related to homelessness and broader human services) as well as coastal-related issues, with the latter focused on

¹ The City’s CDP proposal only applies to the coastal zone portion of the City, which is about one-quarter of the City, and about one-third of its more urbanized area. Separately but related, the City previously adopted a non-LCP City Municipal Code ordinance that applies outside of the coastal zone and that does the same thing as the proposed CDP, and that ordinance has been in effect in non-coastal zone portions of the City since November 2021.

impacts to public access (i.e., from oversized vehicles taking up public parking spaces for days at a time) and water quality/habitat (i.e., from some oversized vehicle users' behaviors related to trash and waste disposal), and that the proposal is narrowly tailored in an effort to address those issues and to mitigate for any impacts it itself may cause.

More specifically, the City proposes that in lieu of parking on City streets between the hours of midnight to 5am, oversized vehicles would be directed to the City's safe parking sites for overnight parking. The safe parking program would provide a total of up to 71 alternative overnight parking spaces for oversized vehicles in various locations within City limits (both inside and outside of the coastal zone) in three "tiered" categories: Tier 1 spaces provide emergency parking for a single night; Tier 2 spaces offer overnight parking for up to 30 days (with the possibility of extension if capacity allows) with trash and hygiene facilities provided; and Tier 3 spaces provide all Tier 2 elements as well as 24/7 parking facilities with access to additional amenities and support services (e.g., restrooms, dumpsters, showers, electrical charging stations, vehicle battery charging, additional parking for users' other vehicles, and personal case managers that assist participants in applying to housing programs, obtaining health insurance, seeking mental health support, etc.). In total, the City currently provides three Tier 1 spaces, forty-six Tier 2 spaces, and between sixteen and twenty-two Tier 3 spaces, depending on the size of the oversized vehicles participating at any given time. At the time of publishing of this report, Tier 1 and Tier 2 spaces continue to be available, but all Tier 3 spaces are currently occupied and a waiting list has been established.² However, under the City's proposal, if there are no alternative parking spaces available for oversized vehicles in any of the Tiers, the City will give any vehicle seeking a spot in the program passes to park overnight on the street until a Tiered space becomes available.

In regards to the Coastal Act and applicable LCP (which is the standard of review for this CDP application)³ the primary issue of concern of many critics of the ordinance, namely the effect of the parking restriction and the overall program on the unhoused community that sleeps overnight in their oversized vehicles on public streets at night, is not primarily a Coastal Act/LCP issue as it is a social issue. As a result, the Commission's evaluation is rather limited, and is focused on the coastal resource – as opposed to social – issues raised. The core question for the Commission is whether the proposed project is consistent with applicable Coastal Act/LCP public access and water quality/habitat protection provisions. That is not to suggest that the Commission must focus on those coastal resource issues in isolation, and in fact the Commission's Environmental Justice policy is applicable and the Commission can, and as staff recommends, condition the project so that the affected unhoused community has

² As of this report, those seeking spaces under Tier 1 have been directed to Tier 2 sites, allowing participants to extend their stay from one night only to 30 days. Tier 1 spaces are available to be used should there be a demand. The Tier 3 spaces currently have a 50+ person waiting list. Interested parties are added to the waiting list by calling the Tier 3 phone number (831-515-8665). Those at the top of the waitlist receive periodic check-ins via phone by City staff to reconfirm their interest in the program and so as to provide updates on when a space may become available.

³ The LCP applies to the entire project, and the Coastal Act's public access and recreation provisions also apply (in addition to the LCP) to that portion of the project seaward of the first public road.

access to the process, and that environmental benefits and burdens from the Coastal Act/LCP conclusion on the proposed CDP application are equitably shared and not disproportionately focused on that community and not others. In other words, the Coastal Act/LCP evaluation needs to be also understood through that environmental justice lens.

In terms of public access, the proposed parking restriction is limited to the hours between midnight and 5am, which is not a high public access use time, and limited to those using oversized vehicles for such access, which itself is a subset of nighttime public access users. As a result, the public access impact of the program on nighttime public access is negligible. And the City argues that the impact is in fact positive overall, as the nighttime restriction and the alternative safe parking program means that more public parking spots will be available during the prime daytime public access times as many oversized vehicles would instead be parking in safe parking sites during the day as well, opening up those on-street spots for other daytime users to park. While those sleeping overnight in their oversized vehicles are the focus of this proposal, it is actually directed at all oversized vehicles, whether such vehicles are being used for sleeping purposes at night or just being parked, meaning that all oversized vehicle users will be affected. In that sense, the limited impact on nighttime public access use is thus spread to all such oversized vehicle users, and not just the unhoused, and the unhoused are provided alternate means of parking (or even passes to park on the street if the Tiered parking areas are full), to avoid the program being punitive in some way towards such people. And perhaps more importantly in terms of consistency with the Coastal Act/LCP, the impact of the program on public access is limited to a small subset of people who recreate overnight near the coast and is potentially beneficial, as the City argues, because the spaces are being turned over allowing others to occupy them.

In terms of water quality/habitat concerns, the City has documented numerous instances where oversized vehicle users appear to have contributed to resource degradation through deposition of litter and bodily wastes, sometimes in and/or near important habitat areas (such as Antonelli Pond), or where such litter/wastes can make their ways to such resource areas. To be clear, the City's water quality/habitat documentation and the Commission's analysis of it do not cast aspersions on those living in their oversized vehicles, nor is it to suggest that all who do so are causing such harm to coastal resources, but rather to identify actual impacts to coastal resources that do and can occur in relation to such activities. And here the City has gone beyond mere speculation and anecdotal observations to provide evidence that such issues do exist in the City, and that they are leading to actual resource degradation. The City's proposed program should only lead to water quality/habitat enhancement as compared to the current situation, and ensure consistency with LCP policies that protect these resources.

Thus, the proposed project does not raise significant Coastal Act and LCP coastal resource concerns, and by extension does not raise significant environmental justice issues when viewed through that lens. Rather, the City's proposed solution is limited and targeted to the late overnight hours, when public access use is already extremely limited. And in place of simply instituting an overnight parking ban by itself, the City proposes to implement a complementary safe parking program where oversized

vehicles can park overnight and users can safely sleep in their vehicles and take advantage of social services and amenities, all of which is provided at no cost to such users. And importantly, the City has committed to accepting everyone who signs up for the program, and providing either a spot in a safe parking location or a free pass to park on the street overnight until a Tiered safe parking space becomes available. To be clear, the City has clearly heard the Commission on these points, as the current program is a marked improvement from the City's 2016 proposal reviewed by the Commission (which was eventually abandoned by the City), and even a marked improvement from last year when the Commission found substantial issue on the appeal in July because the City has modified and augmented the proposed program in light of those Commission findings.⁴ And the now proposed project provides an important array of services directed towards helping those who find themselves unhoused and living in their oversized vehicles. Staff believes that there are some additional details to be worked out, including related to outreach, and further believes that the program would benefit from adaptive management to continue to improve it based on 'lessons learned', and thus recommends conditions for such elements. Critically, staff also believes that this program, which is really a social services program, is more appropriately managed by the City, and therefore recommends a one-year Commission CDP to allow the program to get up and running, but after that time the City would need to process a new City CDP for the program. In that way, the Commission's scarce staffing resources are freed up for planning and permitting items with more severely impactful coastal resource consequences, and the City can better integrate its overall social services and program management through a City-issued CDP.⁵

Staff does not believe that this program will be without its challenges but recognizes that the City is taking its obligations seriously in a good faith attempt to holistically tackle these complex social and coastal resource issues. In this instance, while there may remain a few gaps given the complexity and sensitivity of the issues implicated, the City's program goes substantially beyond what many coastal jurisdictions have done and provides a significant complementary safe parking program with services and amenities, all for free to the user. Staff believes that the project can be found Coastal Act and LCP consistent and recommends that the Commission approve the CDP. The necessary motion is found below on **page 6**.

⁴ When the Commission took jurisdiction over this CDP application in July 2022, the project included a prohibition on oversized vehicles parking at any time within 100 feet of certain roadway features (i.e., crosswalks, intersections, stop signs, official electric flashing devices, and approaches to any traffic signals), which would have eliminated all oversized vehicle parking on over half of the City's coastal zone's roads (i.e., 28 road miles out of a total of 52 road miles would have been made off-limits to oversized vehicle parking), and this was a primary component of the Commission's substantial issue determination. The City has since eliminated that provision from the proposed project. In addition, at the time of the substantial issue finding, program details were more limited, and the City has since fleshed out all aspects of the program so it is clearer how it will operate, including how it will provide for free overnight parking for all oversized vehicle users who want it, so there is complete coverage for all potential users.

⁵ Including more seamlessly integrating this program with the array of additional programs that the City implements to address homelessness and broader social issues.

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EX PARTE COMMUNICATION

1. MOTION AND RESOLUTION

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

Motion: *I move that the Commission **approve** Coastal Development Permit Number A-3-STC-22-0018 pursuant to the staff recommendation, and I recommend a **yes** vote.*

Resolution to Approve CDP: *The Commission hereby approves Coastal Development Permit Number A-3-STC-22-0018 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with City of Santa Cruz Local Coastal Program policies and Coastal Act access and recreation policies. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

2. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid, and development shall not commence, until a copy of the permit, signed by the Permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

3. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Approved Project.** This CDP authorizes a midnight to 5am parking restriction for oversized vehicles on public streets, parking lots, and other public rights-of-way in the City of Santa Cruz coastal zone; an alternative safe parking program in three tiers and multiple locations with services and amenities, all free to the user; and related implementation components (e.g., signage, striping, outreach, etc.), all as more specifically described in the proposed project description (see **Exhibit 1**) and as adjusted by these special conditions. Minor adjustments to these approved project parameters, including to both conditions and any Executive Director-approved plans, that do not require a CDP amendment or a new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.
- 2. CDP Duration.** This CDP shall expire on May 11, 2024. If the City intends to continue to implement the parking restrictions, safe parking program, and related elements authorized by this CDP past that date, then a new CDP must be obtained from the City. Any such development authorized by such new CDP shall substantially conform the development authorized under this CDP, including this CDP's terms and conditions, and shall address any issues/problems encountered in implementation through May 11, 2024.
- 3. Outreach Plan.** WITHIN ONE-MONTH OF CDP APPROVAL (i.e., by June 11, 2023), the Permittee shall submit two copies of an Outreach Plan to the Executive Director for review and written approval. The Plan shall identify the ways in which information regarding the approved project and its various components (e.g., overnight parking restrictions, safe parking options and services, enrollment protocols, etc.) is to be disseminated to the general public and to oversized vehicle owners, both initially and over time and by whom (e.g., City Social Services staff, Public Works staff, Police Department staff, etc.), with a goal of ensuring that all affected parties are aware of the oversized vehicle parking restrictions and safe parking programs, and how to participate. The Plan shall identify any media (e.g., brochures, websites, etc.) that will be used to provide this information, all of which shall be made available in Spanish and other appropriate non-English languages, and all of which shall be written in plain language designed to prevent educational and cultural barriers that might hamper access to the programs.
- 4. Signage Plan.** WITHIN ONE-MONTH OF CDP APPROVAL (i.e., by June 11, 2023), the Permittee shall submit two copies of a Signage Plan to the Executive Director for review and written approval. The Plan shall also identify the location and design of all signs and related media that will be used to implement the approved project (e.g., on-street signs, stencils, striping, etc.). Such signage shall be sited and designed so as to provide clear information about parking parameters in a manner that does not substantially impair significant public views or result in visual clutter. The Plan shall also include parameters for removal of all signage and media upon expiration of the

CDP, unless the City has obtained an extension or has obtained a new CDP with similar signage protocols.

- 5. Assumption of Risk.** The Permittee acknowledges and agrees in relation to this CDP and the development that it authorizes: (a) to assume all risks; (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; and (d) that any adverse effects to property or people caused by the development authorized by this CDP shall be fully the responsibility of the Permittee.
- 6. Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.

4. FINDINGS AND DECLARATIONS

A. Project Location

The overall proposed project includes both coastal zone and non-coastal zone components, where the non-coastal zone components are already in effect,⁶ and thus the portion of the proposed project before the Commission in this CDP application would only affect public streets, parking lots, and other public rights-of-way (for proposed parking restrictions) and safe parking sites within the coastal zone in the City of Santa Cruz. At the current time, three of the proposed safe parking sites are located within the coastal zone,⁷ and seven are located outside the coastal zone.⁸ See **Exhibit 1** for a map of the City-proposed safe parking program locations.

⁶ By virtue of the City's adoption of an oversized vehicle ordinance within the non-LCP Municipal Code in November 2021.

⁷ At the City's police station (Tier 1), Mike Fox Skate Park (Tier 2), and Depot Park (Tier 2).

⁸ Tier 2 parking spaces at City Hall, the Civic Center, Pearl Alley, Front/Cathcart Streets, Cedar Street, and Harvey West Park, and Tier 3 parking spaces at the National Guard Armory.

B. Project Description and Background

The proposed project is the culmination of nearly a decade of City efforts to regulate overnight parking for oversized vehicles along City streets, parking lots, and rights-of-way. At its core, the City's proposed project is generally borne of two primary concerns: that many of the oversized vehicle's parking in the City are used as housing for the unhoused and that the City's streets are not equipped to serve as domiciles (including lacking proper waste and trash collection), thereby resulting in broad public health, safety, and welfare concerns, but also coastal resource concerns. And also that many oversized vehicles park on City streets for long stretches of time, and thereby occupy parking spaces that should be open and available to the general public for coastal access purposes. Without some type of intervention, there is little ability for the City to address these problems, including the City's goal of getting those who solely live in their vehicles access to broader public health, safety, and housing services.

Toward that end, the City previously approved a CDP for an overnight oversized vehicle parking prohibition in 2015, and that City CDP action was appealed to the Commission in 2016 (Appeal Number A-3-STC-16-0063). In this previous version, the City sought to prohibit oversized vehicle parking city-wide from midnight to 5am; notably, it did not provide any alternative parking spaces or programs for displaced vehicles. Following a public hearing, the Commission found a substantial issue with the City's approval and took jurisdiction over that CDP application in 2016. However, the City ultimately abandoned that project in favor of pursuing a new version of the project that better responded to the Commission's articulated concerns, and has thus proposed the current program.⁹

After an extensive local review process, including meeting with affected parties both opposed to and supportive of such oversized vehicle parking restrictions,¹⁰ the City Council in April 2022 ultimately approved a CDP for a revised version of the oversized vehicle parking restriction program. That program provided for a similar midnight to 5am parking prohibition, as well as new provisions relating to safe parking spaces (although the exact locations and parameters for such a program were not fully identified) and a prohibition on oversized vehicles parking at any time within 100 feet of certain roadway features (i.e., crosswalks, intersections, stop signs, official electric flashing devices, and approaches to any traffic signals). That approval was appealed to the Commission, and the Commission found a substantial issue with the City's approval action in July 2022. Among the LCP and Coastal Act issues identified, the Commission was concerned that the safe parking program was not fully fleshed out, thereby lacking clarity on key program provisions related to alternative parking locations for displaced vehicles in lieu of parking on public streets. In addition, the prohibition on oversized vehicles parking at all times within 100 feet of certain roadway components would render 54% of the coastal zone's roads (28 out of a total of 52 road miles) off-limits to such parking. Both

⁹ And the current proposed project effectively replaces that prior project and moots that prior CDP application.

¹⁰ In 2021, the City created an ad hoc City Council committee to work with staff and the community to develop recommendations for consideration by the City Council. The committee met and engaged with community members, public health/homeless service providers, members of the Association of Faith Communities, and County staff via email, phone calls, and one-on-one and group meetings.

elements would have adversely impacted the public access and recreation abilities of those who own RVs and other large vehicles and use those vehicles to access public coastal resources, with a disproportionate impact on those who live in their vehicles and have no other parking options.

Subsequently, City and Commission staff sought to address project concerns for a revised project that could be brought to the Commission for review. In this time,¹¹ the City also sought to limit oversized vehicles on certain streets via a different City-approved CDP from 2016 (CP16-0045) that authorized the demarcation of on-street parking spaces through striping along certain segments of West Cliff Drive and Pelton Avenue. Upon hearing of the City's proposal to use that CDP for striping purposes (i.e., striping parking spaces in such a manner as to only accommodate regular vehicles and not oversized ones), Commission staff informed the City that that CDP only authorized the specific striping on West Cliff Drive and Pelton Avenue, including since those specific areas were mapped in the City's 2016 CDP approval, rather than in any prospective street anywhere in the City, and that any additional striping would require a separate CDP action. The City, following acknowledgment of Commission staff's position, decided to forgo pursuit of a striping program pursuant to the 2016 City CDP and to instead seek approval of the nighttime oversized vehicle parking restrictions in this CDP application, including finalizing specific parameters.

Since the Commission's July 2022 substantial issue action, the City has revised the nighttime oversized vehicle parking restrictions project to respond to Commission concerns, including removing the 100-foot ban entirely from its proposal, and more fully and explicitly developing the parameters of the safe parking program. More specifically, the proposed project would prohibit parking of oversized vehicles (i.e., defined to be vehicles¹² that meet or exceed twenty feet in length at any time, or (exclusive of fixtures, accessories, or property) meet or exceed both eight feet in height and seven feet in width) citywide on public streets, parking lots, and other public rights-of-way between midnight and 5am; would provide alternative overnight parking areas and services for displaced vehicles ("safe parking"); and would implement related measures (e.g., signage, striping, outreach, permits, enforcement, etc.).

In lieu of parking on City streets between the hours of midnight to 5am, the City would direct oversized vehicles to the safe parking sites. The safe parking program would provide a total of up to 71 alternative overnight parking spaces for oversized vehicles in various locations within three "tiered" categories: Tier 1 spaces provide emergency overnight parking for a single night (e.g., overflow parking when Tier 2 and 3 spaces are full, etc.); Tier 2 spaces offer overnight parking for up to 30 days (with the possibility of extension if capacity allows) with trash and hygiene facilities provided; and Tier 3 spaces provide all Tier 2 elements as well as 24/7 parking facilities with access to

¹¹ The City also placed signage along Delaware Avenue in summer 2022 prohibiting overnight parking. Commission Enforcement staff alerted the City to take the signage down given the lack of a CDP for same, and the City did so.

¹² As defined in Section 670 of the California Vehicle Code, a "vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

additional amenities and support services (e.g., restrooms, dumpsters, showers, electrical charging stations, vehicle battery charging, additional parking for users' other vehicles, and personal case managers that assist participants in applying to housing programs, obtaining health insurance, seeking mental health support, etc.). In total, the City currently provides three Tier 1 spaces, forty-six Tier 2 spaces, and between sixteen and twenty-two Tier 3 spaces, depending on the size of the oversized vehicles participating at any given time. At the time of publishing of this report, Tier 1 and Tier 2 spaces continue to be available, but all Tier 3 spaces are currently occupied and a waiting list has been established.¹³ However, under the City's proposal, if there are no alternative parking spaces available for oversized vehicles in any of the Tiers, the City will give any vehicle seeking a spot in the program passes to park overnight on the street until a Tiered space becomes available. Participants in the safe parking program are required to register with the City and sign a code of conduct, and in return the City provides overnight spaces and associated facilities (e.g., porta-potties, hand washing stations, garbage/recycling, etc.) free of cost. Tier 2 and Tier 1 facilities are operational from 7pm to 7am every day, while Tier 3 spaces are operational 24/7. The City acknowledges that the safe parking program is still a work in progress, and its specific offerings, including in terms of the number of spaces available and services provided, will most likely change in the future as the program evolves and lessons are learned about what works versus what doesn't. However, the City indicates that the proposed components identified herein are a minimum floor for implementation and that their goal is to offer additional services as resources, funding, and understanding evolve.

The proposed program also includes permit options both for those living in a dwelling unit¹⁴ within the City as well as hotel/motel guests. These permits would allow oversized vehicles (either for the resident themselves or for their guest) to be parked on the street overnight on a temporary basis. For those who reside in a dwelling unit, the City would provide an annual permit for parking within 400 feet of their unit for four 72-hour periods total per calendar month and would offer such individuals up to six permits annually for their out-of-town guests, subject to the same restrictions. For hotels and motels, the City would offer unlimited permits that can be distributed to their guests, where each such permit would be valid for up to 72 hours. The fees for these permits have yet to be established, but City staff indicates that the residential permit would likely be \$30 for the resident and \$9 per day for their guests, while the hotel/motel fee is unknown at this time.¹⁵ See additional detail on the City's proposed project parameters in **Exhibit 1**.

¹³ As of this report, those seeking spaces under Tier 1 have been directed to Tier 2 sites, allowing participants to extend their stay from one night only to 30 days. Tier 1 spaces are available to be used should there be a demand. The Tier 3 spaces currently have a 50+ person waiting list. Interested parties are added to the waiting list by calling the Tier 3 phone number (831-515-8665). Those at the top of the waitlist receive periodic check-ins via phone by City staff to reconfirm their interest in the program and so as to provide updates on when a space may become available.

¹⁴ A dwelling unit is defined as a building or portion of a building, including one or more rooms which is/are designed or used as a residence by one family or housekeeping unit, with facilities for living, sleeping, eating, sanitation, and food preparation.

¹⁵ All fee revenue would be deposited into the City's General Fund.

C. Standard of Review

The entire project is located within the City's delegated CDP jurisdiction. As a result, the standard of review for the CDP application is the City of Santa Cruz certified LCP and, for the portions of the project that are located between the first public road and the sea, also the Coastal Act's public access and recreation provisions.

D. CDP Determination

1. Introduction

As mentioned above, the impetus for the proposed project is twofold. One reason is to address what the City has determined is a public health, safety, and welfare concern related to the proliferation of people residing in large vehicles on public streets for extended periods of time. The City's concern is that the public right-of-way is not designed to serve as a place for habitation, and thus basic health and safety needs, including waste and refuse disposal, are often left unaddressed even with self-contained units, leading to water quality/habitat concerns. And secondly, that some of the 'hot spots' where oversized vehicles park are near important coastal access and recreation locations, including along Delaware Avenue and other locations on the City's westside, which adversely affects the public's ability to access Natural Bridges State Beach and other coastal locations. Both of these reasons require some discussion about the Commission's role in this project's evaluation and adjudication.

With respect to the City's goal of addressing oversized vehicles as a housing supply, it should be noted that the City's determination is one rooted in its broad police power to regulate the public health, safety, and welfare of its community. The City has found that the status quo doesn't help solve the underlying problem that is one of ensuring the unhoused have access to basic services. And they have made a collective policy call, including via their elected representatives, to create a comprehensive program (among other programs and services it provides on these issues) to address the issues and impacts associated with unrestricted use of oversized vehicles as living accommodations.¹⁶

The use of public streets as a space to reside because of a person's lack of financial means to afford housing is a most tragic circumstance, and an issue of concern to coastal communities and all who enjoy the State's coastal zone. Legitimate hardships can compel certain people to reside in oversized vehicles, which is a function of the homelessness crisis plaguing much of the nation at the present time. The drivers, causes, and impacts associated with homelessness are extremely complex and are important local government concerns to address.

The Coastal Commission's focus is different, and derives from the fact that the Commission is a coastal management agency charged with the protection and enhancement of the State's coastal resources. The Commission's review authority is

¹⁶ The Commission also recognizes that not everyone agrees with the City's position. Notably, many unhoused advocates argue that residing in oversized vehicles offers a safer, more secure option than living on the street or in other non-private spaces, and is something that should be supported while also promoting affordable housing.

rooted in a coastal resource protection lens rather than on broader societal issues associated with public health and general welfare, which are the purview of other government agencies and entities. Put another way, the City made a policy call to address the public health, safety, and welfare of a certain segment of the populace based on its police powers. The Commission's review can be understood as to how the impact of that policy call affects the coastal resources the Commission is charged with protecting, in this case public coastal access and water quality/habitats. This is an important distinction between the City's and Commission's roles on these and similar policy matters.¹⁷

Thus, in regards to the Coastal Act and LCP, which is the standard of review for this CDP application, the primary issue of concern of many critics of the ordinance, namely the effect of the parking restriction and the overall program on the unhoused community that sleeps overnight in their oversized vehicles on public streets at night, is not primarily a Coastal Act/LCP issue as it is a social issue. As a result, the Commission's evaluation is rather limited, and is focused on the coastal resource – as opposed to social – issues raised. The core question for the Commission is namely whether the proposed project is consistent with applicable Coastal Act/LCP's public access and water quality/habitat protection provisions. That is not to suggest that the Commission must focus on those coastal resource issues in isolation, and in fact the Commission's Environmental Justice provisions are applicable and the Commission can condition the project so that environmental benefits and burdens from the Coastal Act/LCP conclusion on the proposed CDP application are equitably shared and not disproportionately focused on that community and not others. In other words, the Coastal Act/LCP evaluation needs to be also understood through that environmental justice lens.

2. Coastal Resource Impacts

The proposed project raises coastal resource concerns related to protection of both public access and recreation, as well as water quality/habitats.

Applicable Coastal Act and LCP Provisions

Public Access and Recreation

Coastal Act Sections 30210 through 30240 specifically protect public access and recreational opportunities, particularly access to and along the coast and other important recreational areas. In particular:

¹⁷ And such distinction is not new to the Commission. For example, the Commission has approved measures to reduce dust and particulate matter at Oceano Dunes in San Luis Obispo County, including because the San Luis Obispo County Air Pollution Control District had determined that off-highway vehicle use was contributing to downwind air quality problems. The Commission's CDP review was one of evaluation of the coastal resource impacts of the proposed project's identified solutions to the air quality problem, and not an evaluation of the Air Pollution Control District's air quality programs and standards. As in that case and as in this case, the Commission's focus is on the coastal resource implications of the proposed project and not in an evaluation of another public entity's protocols to address issues outside of coastal resource management.

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

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

Section 30212(a). *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

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

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

Section 30214. (a) *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

(b) *It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

(c) *In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

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

Section 30221. *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

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

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

LCP public access and recreation provisions both reiterate and amplify these Coastal Act provisions, including stating in the LCP's Land Use Plan (LUP):

Policy 1.7. *Develop plans to repair, maintain and maximize public access and enjoyment of recreational areas along the coastline consistent with sound resource conservation principle[s], safety, and rights of private property owners.*

Policy 1.7.1. *Maintain and enhance vehicular, transit, bicycling and pedestrian access to coastal recreation areas and points.*

Policy 3.5. *Protect coastal recreation areas, maintain all existing coastal access points open to the public, and enhance public access, open space quality and recreational enjoyment in a manner that is consistent with the California Coastal Act.*

Policy 3.5.3. *Require new development and public works projects to provide public access from the nearest public roadway to the shoreline and along the coast, except where it is inconsistent with public safety, protection of fragile coastal resources, or where adequate access exists nearby.*

Policy 3.5.5. *Develop and implement plans to maximize public access and enjoyment of recreation areas along the coastline.*

Water Quality/Habitat

The LCP also includes policies addressing water quality and related sensitive habitat areas, mirroring/implementing Coastal Act policies on these issues, including the following as specified in the LUP:

Policy 2.1. *Meet or exceed State Water Resources Control Board standards for discharge of sewage and storm water to the Monterey Bay.*

Policy 2.3. *Ensure that new development or land uses near surface water and*

groundwater recharge areas do not degrade water quality.

Policy 4.1.5. *Protect the quality of water discharged into the Bay and allow no dumping of materials into the Monterey Bay.*

Policy 4.2. *Preserve and enhance the character and quality of riparian and wetland habitat...*

Policy 4.2.3. *Minimize increased runoff into riparian and wetland areas...*

For public access and recreation, Coastal Act Section 30210 and LCP Policy 3.5 require Coastal Act authorized development to maximize public access and recreational opportunities. Coastal Act Section 30211 prohibits development from interfering with the public's right of access to the sea where acquired through use or by legislation. In approving new development, Section 30212 requires new development to provide access from the nearest public roadway to the shoreline and along the coast, save certain limited exceptions, such as existing adequate nearby access. Section 30212.5 ensures new parking is adequately distributed within an area to mitigate potential impacts. Lower cost visitor and recreational facilities are protected and encouraged under Section 30213. Section 30214 allows for public access policies to consider the unique characteristics of new development, and to allow for public access to be tailored in an appropriate manner in light of that context. Sections 30220, 30221, and 30223 protect coastal, oceanfront, and upland areas for public access and recreational uses. New development in areas adjacent to parks and recreational areas must protect those areas under Section 30240(b). Similarly, LUP Policies 1.7 and 3.5.5 direct the City to develop (and implement in terms of Section 3.5.5) plans to maintain and maximize public access and enjoyment of recreational areas along the coast. And Policy 1.7.1 requires that all forms of access to recreational areas and destinations be maintained and even enhanced, including vehicular access. Finally, Policy 3.5.3 requires that new development, and explicitly public works projects such as this one, provide public access from the nearest public roadway to the shoreline and along the coast unless it is already adequately provided, or where public safety or coastal resource concerns would demand otherwise.

The requirements of Coastal Act Section 30210 and LUP Policy 3.5 to maximize recreational access opportunities represent a different threshold than to simply provide or protect such opportunities, and differs from other like provisions in this respect: it is not enough to simply provide such opportunities to and along the coast, and not enough to simply protect such opportunities; rather such opportunities must also be maximized. These policies provide fundamental direction with respect to projects along the California coast when public access issues are raised. Taken together, these overlapping policies require maximization of public access and recreation opportunities for the public, particularly free and low-cost access, and including explicitly vehicular access via the LCP.

At the same time, the Coastal Act and the LCP also require that such access not be maximized at all costs, and explicitly require that the public access policies be implemented in a way that takes into account the "time, place, and manner of public access depending on the facts and circumstances in each case", including evaluating

the capacity of the area in question to sustain use and at what level of intensity, the potential need for “limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses,” and “[t]he need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter” (Section 30214). Similarly, the direction in LUP Policy 1.7 to maximize public access and enjoyment of recreational areas is tempered by the need for such maximizing to be consistent with “sound resource conservation principle[s], safety, and rights of private property owners”. And LUP Policy 3.5.3 similarly refers to the need to evaluate public safety, coastal resources, and the adequacy of nearby access when considering how the access is provided. Thus, when the Commission considers development that may impact public access, as in this proposed project, the Coastal Act and the LCP require the Commission to analyze the impacts holistically and not to focus only on maximizing public recreational access opportunities in a vacuum.

And in fact, one of the considerations in question here relates to water quality and habitat protection. The LCP includes numerous provisions to address both water quality and related sensitive habitats. For example, LUP Policy 2.3 makes clear that “new development or land uses” in close proximity to areas of water “do not degrade water quality”, while LUP Policy 4.1.5 protects the “quality of water discharged into the [Monterey] Bay” and prohibits “dumping of materials into the Monterey Bay”. Finally, LUP Policy 4.2 is intended to “preserve and enhance the character and quality of riparian and wetland habitats” and LUP Policy 4.2.3 minimizes “increased runoff into riparian and wetland areas”. In short, the LCP includes a suite of policies to protect water quality and related habitats, mirroring/implementing similar Coastal Act provisions.¹⁸

Analysis

Parking, and especially free and/or lower cost parking, is an extremely important coastal resource and public commodity in the coastal zone, and it is no different in the City of Santa Cruz, which is a prime visitor destination. Santa Cruz’s shoreline is a magnet for coastal visitors, including from the greater San Francisco Bay Area as well as from more inland areas, and its coastal zone is routinely strained to accommodate all the public access it provides, including with respect to parking for those not fortunate enough to live in the City’s coastal zone area and along its shoreline. And lacking significant public parking lot options, most coastal visitors arriving to Santa Cruz coastal zone destinations via vehicles make use of on-street parking opportunities, especially areas most directly near the shoreline and its access points. There is typically a limited supply of, and high demand for, on-street parking for these coastal visitors. In short, free and/or lower cost parking, particularly along public streets, and rights-of-way, is an important public access need, especially for those coming from further away and least able to afford paid parking options. It is in that context that any proposed parking restrictions – in this project and otherwise – are to be understood.

¹⁸ Including Sections 30230, 30231, 30233, 30236, and 30240.

In this case, the City's proposed parking restriction is limited to the hours between midnight and 5am, which is not a high public access use time.¹⁹ In fact, while the City does not currently have data on the amount of nighttime coastal access (and for which public parking might be necessary), it is fair to presume that the majority of coastal access takes place outside of the midnight to 5am window. While there are always a few people that avail themselves of nighttime beach walks, West Cliff Drive walks, surfing, fishing, or other public access pursuits at night, the number of such access users during those nighttime hours are a small fraction compared to the number of daytime coastal visitors. Thus, the proposed nighttime parking restrictions and related program elements are not anticipated to significantly adversely affect an overwhelming majority of coastal access user. Further, the public access restriction in this case is limited to those using oversized vehicles for such access, which itself is a subset of nighttime public access users. As a result, the public access impact of the program on nighttime public access is negligible.

And the City argues that the public access impact is in fact positive overall, as the nighttime restriction and the alternative safe parking program means that more public parking spots will be available during the prime daytime public access times, as many oversized vehicles would instead be parking in safe parking sites during the day as well, opening up those on-street spots for other daytime users to park. And in many cases, the resulting turnover of vehicles from parking spots may lead to more opportunities for other vehicles to access the coast, especially for areas like Swanton Boulevard and Delaware Avenue adjacent to Natural Bridges State Beach and near to West Cliff Drive. Thus, it is a fair conclusion to say that the proposed project will not significantly adversely impact public coastal access and in fact, may result in some benefits to access in the form of parking turnover²⁰.

In addition, the Coastal Act and LCP allow for limits on public access when required to address problems related to such access, including natural resource impacts and public safety concerns. So a different question also applies; namely whether there are demonstrable problems related to the public access in question. Here, the City has documented numerous instances where oversized vehicle users appear to have contributed to resource degradation through deposition of litter and bodily wastes, sometimes in and/or near important habitat areas (such as Antonelli Pond), or where such litter/wastes can make their ways to such resource areas (see photos and other evidence of these issues in the City's rationale for the proposed project in **Exhibit 2**). These problems emanate from the fact that many overnight oversized vehicles are used

¹⁹ The Commission has made similar findings as it relates to nighttime public access use in the City of Santa Cruz in multiple Commission-approved CDP cases that are relevant here (including West Cliff Drive midnight to 5am parking restrictions approved in 2008 (CDP A-3-STC-07-057), and the City's Beach Management Plan midnight to one-hour before sunrise use restriction approved in 2020 (CDP 3-20-0088)), and relies on those cases and findings as evidence applied to this case.

²⁰ To drive the point home further, if this were the other way around and the Commission were tasked to evaluate a proposal to allow semi-permanent oversized vehicles parking in prime public access street parking spots, that would raise public access concerns due to the monopolizing of such prime coastal access parking locations. While temporary overnight oversized vehicle parking does provide public access recreational opportunities, the City has found that the majority of oversized vehicles currently parking in the City are used as housing and subsist longer than one day.

as housing options, and the City's streets and public rights-of-way are not designed for or meant to be used for housing, including lacking basic infrastructure to handle waste. To be clear, the City's water quality/habitat documentation and the Commission's analysis of it is not to cast aspersions on those living in their oversized vehicles, nor is it to suggest that all who do so are causing such harm to coastal resources, but rather to identify actual impacts to coastal resources that do and can occur in relation to such activities. And here the City has gone beyond mere speculation and anecdotal observations to provide evidence that such issues do exist in the City, and that they are leading to actual resource degradation. And the City indicates that although existing laws are in place that, for example, prohibit dumping and are intended to prevent these types of activities, limited staff and resources have made these laws impractical to enforce in this context. In any case, to the extent oversized vehicles are contributing to water quality/habitat impacts, and the City's evidence suggests that some are, the City's proposed program should only lead to increased water quality/habitat protection and as such the program will be in conformance with LUP policies that prohibit dumping in coastal waters so as to protect water quality.

Thus, the proposed project does not raise significant Coastal Act and LCP coastal resource concerns. Rather, the City's proposed solution is limited and targeted to the late overnight hours, when public access use is already extremely limited. And in place of simply instituting an overnight parking ban by itself, the City proposes to implement a complementary safe parking program where oversized vehicles can park overnight and users can safely sleep in their vehicles and take advantage of social services and amenities, all of which is provided at no cost to such users.²¹ And importantly, the City has committed to accepting everyone who signs up for the program, and providing either a spot in a safe parking location or a free pass to park on the street overnight until a Tiered safe parking space becomes available. To be clear, the City has clearly heard the Commission on these points, as the current program is a marked improvement from the City's 2016 proposal reviewed by the Commission (which was eventually abandoned by the City), and even a marked improvement from last year when the Commission found substantial issue on the appeal in July because the City has modified and augmented the proposed program in light of those Commission findings.²²

²¹ For example, the City contracts with Santa Cruz Free Guide to provide case managers for Tier 3 participants. Four full-time case managers provide support services to participants and are staffed on site for forty hours during the week. Adjacent to the Tier 3 parking spaces is the Armory building and the City Overlook Emergency Shelter, which have staff on site 24/7 provided by the Salvation Army.

²² When the Commission took jurisdiction over this CDP application in July 2022, the project included a prohibition on oversized vehicles parking at any time within 100 feet of certain roadway features (i.e., crosswalks, intersections, stop signs, official electric flashing devices, and approaches to any traffic signals), which would have eliminated all oversized vehicle parking on over half of the City's coastal zone's roads (i.e., 28 road miles out of a total of 52 road miles would have been made off-limits to oversized vehicle parking), and this was a primary component of the Commission's substantial issue determination. The City has since eliminated that provision from the proposed project. In addition, at the time of the substantial issue finding, program details were more limited, and the City has since fleshed out all aspects of the program so it is clearer how it will operate, including how it will provide for free overnight parking for all oversized vehicle users who want it, so there is complete coverage for all potential users.

And the now proposed project provides an important array of services directed towards helping those who find themselves unhoused and living in their oversized vehicles (e.g., restrooms, dumpsters, showers, electrical charging stations, vehicle battery charging, additional parking for users' other vehicles, and personal case managers that assist participants in applying to housing programs, obtaining health insurance, seeking mental health support, etc.).²³ The Commission believes that there are some additional details to be worked out, including related to outreach and signage, and further believes that the program would benefit from adaptive management to continue to improve it based on 'lessons learned', and thus includes conditions to address such elements (see **Conditions 3 and 4**). Critically, the Commission also believes that this program, which is really a social services program, is more appropriately managed by the City, and here approves a one-year Commission CDP to allow the program to get up and running, but after that time the City would need to do a new City CDP for the program (see **Conditions 1 and 2**). In that way, the Commission's scarce staffing resources are freed up for planning and permitting items with more serious coastal resource consequences, and the City can better integrate its overall social services and program management through a City-issued CDP.²⁴

Subject to the identified conditions, the proposed project can be found consistent with the coastal resource protection provisions of the Coastal Act and the LCP.

3. Environmental Justice

Applicable Coastal Act and LCP Provisions

The Coastal Act explicitly identifies the need to ensure equality and environmental justice, and allows the Commission to consider coastal resource issues and impacts through that lens in cases like this where the LCP is the standard of review, even if the LCP itself may be silent on such issues. The Coastal Act states:

Section 30013: *The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any*

²³ And the City is also able to more efficiently provide resources that are not readily available in close proximity to concentrations of oversized vehicles (i.e., dumpster services, restroom/hygiene services/facilities, electrical charging, transportation to and from the program site, parking for personal non-oversized vehicles, and connections to case managers that assist participants in applying to housing programs, obtaining health insurance, seeking mental health support, etc.). In practice, it is much easier to provide these amenities when vehicles are grouped together (i.e., within a parking lot or other such area) rather than along residential streets where space, access, and resistance from adjacent residents can present challenges.

²⁴ Including more seamlessly integrating this program with the array of additional programs that the City implements to address homelessness and broader social issues.

program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

Section 30107.3: (a) *“Environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, and incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.* (b) *“Environmental justice” includes, but is not limited to, all of the following:*

- (1) The availability of a healthy environment for all people.*
- (2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.*
- (3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.*
- (4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.*

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

To implement its Coastal Act environmental justice authority, the Commission adopted an Environmental Justice Policy (“EJ Policy”) to guide and inform its decisions and procedures in a manner that is consistent with the provisions in, and furthers the goals of, Chapter 3 of the Coastal Act and certified LCPs. The EJ Policy further articulates environmental justice concepts, including stating:

The term “environmental justice” is currently understood to include both substantive and procedural rights, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Thus, the Commission’s EJ policy underscores the importance of both substance (i.e., evaluating whether projects do or do not disproportionately distribute environmental benefits and burdens) and process (i.e., ensuring that those potentially affected by proposed development have an equitable opportunity to participate in a transparent public process).

Analysis

To date, the key environmental justice issue associated with the proposed project has been about the impacts that the proposed parking restrictions will have on unsheltered individuals who use oversized vehicles as a place to sleep overnight, as well as a means of transportation more broadly requiring a parking space. The project raises both substantive and procedural concerns. While the midnight to 5am oversized vehicle parking restrictions would apply equally to all persons attempting to park oversized vehicles in the City's coastal zone during applicable time periods, a primary substantive concern is the ordinance will disproportionately impact unsheltered individuals who sleep at night in their oversized vehicles and depend on their vehicles for transportation and public coastal access. Procedural concerns include whether the unsheltered community had access to the City's CDP consideration processes and the Commission's appeal and CDP consideration processes to make their views known and to help shape the debate on potential decisions, and ultimately to assess whether such decisions equitably address and distribute coastal resource impacts and enhancements for all, including the unsheltered community.

Identifying Environmental Justice Communities

The first step in this environmental justice analysis is to determine whether unsheltered individuals constitute an "environmental justice" community to which the Coastal Act's environmental justice provisions and the Commission's EJ Policy apply. If so, the next step is to identify to what extent the proposed project may adversely and disproportionately affect those individuals. Answering these questions provides information for the Commission in its consideration of the project's impact on environmental justice, or whether there is an equitable distribution of the environmental benefits.²⁵ The Commission is also tasked with ensuring that communities of concern can access the process to make their views known and to help shape the debate on potential Commission decisions.

The Commission has previously found that unsheltered individuals,²⁶ are in fact an environmental justice community.²⁷ The Coastal Act's definition of environmental justice as set forth in Section 30107.3 above commits the Commission to the fair treatment and meaningful involvement of people of all "races, cultures, and incomes ... with respect to

²⁵ This focus derives from the fact that the Coastal Commission is a coastal management agency charged with the protection and enhancement of the State's coastal resources. Thus, the Commission's review of environmental justice issues is necessarily rooted in its evaluation of coastal resource benefits and burdens, as opposed to non-coastal resource issues, such as broader societal issues associated with public health and general welfare, which are the purview of other government agencies and entities.

²⁶ According to the U.S. Department of Housing and Urban Development, people experiencing homelessness may have access to shelter or may be considered "unsheltered" if their primary nighttime residence is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

²⁷ In 2020, the Commission found that the unsheltered population affected by the Santa Cruz Beach Management Plan curfew (CDP 3-20-0088) warranted consideration under its environmental justice policy. The Commission also found the unsheltered were an environmental justice community in the City of Pacifica's safe parking program in A-3-PAC-22-0029 in August 2022. It is important to note that the Commission's interpretation was made pursuant to the definition under Section 30107.3 which differs from Section 30013.

the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” Unsheltered individuals can generally be classified as a lower income segment of the population that are acutely struggling to attain some of society’s most basic needs, such as safe housing, making them particularly vulnerable to outside environmental hazards. This specific project affects a subset of the unsheltered population who rely on their oversized vehicles for shelter and/or transportation and require a parking space. Although disaggregated data for unsheltered individuals living in an oversized vehicle does not appear to exist, people of color tend to make up a much higher percentage of the overall unsheltered population, particularly African Americans (who statewide make up nearly 40 percent of the unsheltered population but represent only 6.5 percent of the general population).²⁸ In Santa Cruz, African Americans have been estimated to make up about 8% of the unsheltered population by race, while only accounting for 2.1% of the population in Santa Cruz.^{29,30} Thus, the Commission here again finds that such unsheltered individuals, in this case those who sleep in oversized vehicles at night, qualify as an environmental justice community to which the Coastal Act’s environmental justice provisions and the Commission’s EJ Policy apply.

Environmental Justice Concerns

As discussed above, the Commission’s environmental justice analysis is two-pronged, and refers to both potential procedural and substantive concerns. In terms of the former, the City provided an open and inclusive public forum for interested parties, including local and broader unsheltered advocacy groups and stakeholders, to participate. The City conducted six City public hearings, including local appeals by individuals and groups to the City Planning Commission and to the City Council. That process provided an effective means for all parties to participate, including allowing unsheltered advocates and new stakeholders to voice their concerns to the City.³¹ The Commission’s process has likewise been open and transparent, and Commission staff has maintained open lines of communication with all engaged parties, including ultimately in terms of the notice and outreach associated with the Commission hearing on July 14, 2022 and with this report and Commission hearing scheduled to take place on May 11, 2023.

²⁸ As detailed by the U.S. Department of Housing and Urban Development in its 2019 Annual Homeless Assessment Report to Congress.

²⁹ See U.S. Census Bureau QuickFacts: Santa Cruz City, California.

³⁰ Santa Cruz County regularly conducts what is known as a “point-in-time” count of unsheltered individuals, the last of which occurred between 5am and 10am on February 28, 2022, where 2,299 individuals were identified Countywide, and 1,439 in the City of Santa Cruz (“Santa Cruz County Homeless Census & Survey Comprehensive Report 2022”, by Applied Survey Research). Of those individuals, in terms of race and ethnicity, the racial breakdown was 74% white, 9% multi-racial, 3% Native American or Native Alaskan, and 12% black, and where 39% separately identified as Latinx/Hispanic.

³¹ Including that, in 2021, the City of appointed an ad hoc City Council committee to work with staff and the community to develop recommendations for the City Council. The committee met and engaged with community members, public health/homeless service providers, members of the Association of Faith Communities, and County staff via email, phone calls, and one-on-one and group meetings.

In terms of substantive concerns, the question becomes whether the proposed project would result in disproportionate adverse coastal resource impacts on the unsheltered community, here expressed in terms of public access opportunities. In this case, public access concerns were raised due to the impact that restricting oversized vehicle parking would have on unsheltered individuals who cannot claim residency to obtain parking permits or afford to secure longer-term parking at hotels or RV sites. In general, the restrictions will invariably disrupt the current status quo, whereby vehicles are parked on coastal zone streets, often for 24 hours a day and multiple days. While any parking restriction inherently raises questions regarding consistency with the Coastal Act and LCP requirements to maximize public recreational access, here the City has sought to minimize and mitigate any such impacts via narrowly tailoring the parking restrictions to between the hours of midnight and 5am, and providing alternative parking sites equipped with resources for longer-term stays (including trash, hygiene/restroom, etc.). As discussed previously in the “Coastal Resource Impacts” section of this report, while the Coastal Act requires that public recreational access opportunities be maximized (which, again, the public access impacts here can be viewed to potentially *increase* public access as well as address coastal resource concerns related to using streets as housing spaces), it also allows for limitations on such opportunities for a variety of reasons. This includes providing for public safety, protecting against overuse and coastal resource degradation, limiting intensity of use, and providing management measures to address these issues, among other things. In fact, both Sections 30210 and 30214 allow for the regulation of the time, place, and manner in implementing Coastal Act public recreational access policies. If the City has a reasonable basis for limiting public recreational access during certain hours, such as based on public health, safety, and welfare, this can be found consistent with the Coastal Act.

In this case, the City’s proposed project strikes a balance between allowing public access for oversized vehicles during the majority of the day and night, while regulating long-term oversized vehicle parking and providing spaces for these vehicles to go park in safe environments that have improved social services for unsheltered populations. As described in the prior findings above, the overall public access impact is relatively small at night, and parking impacts (i.e., displacement of oversized vehicles) are mitigated through the implementation of the safe parking program.

A parking restriction alone would inherently disproportionately adversely affect those who have no other options but to park their vehicle on the street. However, the project’s safe parking program is proposed to mitigate this disproportionate public access impact. As of the date of this report, 34 such overnight safe parking spaces are available now and an additional 37 spaces are covered by the City’s CDP (for a total of 71 spaces)³² (see **Exhibit 1** for safe parking locations). And while it is not clear if the City’s program will be enough to accommodate all who may require such alternative nighttime parking, as of the publication of this report, the City has indicated that only Tier 3 spaces, which are longer-term spaces with access to social services, are consistently full while both Tier 1 and Tier 2 spaces are rarely utilized and spaces are available for use. And importantly, the City has committed to accepting everyone who signs up for the program

³² The City has indicated that while these spaces are fully ready to be utilized for oversized overnight vehicle parking, demand for parking spaces has not been great enough to utilize these lots.

and providing either a spot in a safe parking location or a pass to park on the street overnight until a safe parking space becomes available (see in **Exhibit 1**). The City's proposed safe parking portion of the program is a marked improvement from the City's previous iteration of this project from 2016 and 2022, as previously described, and it would include complementary program elements that are designed to provide support services for unsheltered individuals (e.g., assistance with applying to housing programs, obtaining health insurance, finding mental health services, etc.).³³

At the same time, the Commission is sensitive to the challenges faced by the unsheltered and is supportive of means within the Commission's mandates to help ease burdens. As mentioned previously, the proposed project could benefit from additional detail regarding outreach and implementation of project parameters. Although the program identifies that oversized vehicles registered in the safe parking program would not be subject to fines and/or towing if the reason they were parked during midnight to 5am was because the program did not have any open safe parking spaces or due to mechanical breakdown, there are concerns that the authorization of the proposed ordinance would lead to unnecessary ticketing and/or towing of individuals that were either unaware of the restrictions or of the opportunities to park in safe parking areas.³⁴ Moreover, there remains concerns for individuals who have mobility issues, disabilities, and language barriers, or that individuals that may have run out of fuel and may find it difficult to access the safe alternatives. To this point, the City has stated that its intent is to avoid these kinds of fines and penalties, including through communication between City officials, parking program managers, the police, and the community so as to not unfairly ticket and/or tow oversized vehicles, and that the program would include outreach on all of these points.³⁵ And while the Commission's approval of this CDP requires more specificity on these points, it is acknowledged that this is a complex program to administer with sensitive issues at stake.

Thus, the Commission does not believe that this program will be without its challenges, but recognizes that the City is taking its obligations seriously in a good faith attempt to holistically tackle these complex social and coastal resource issues.³⁶ The Commission

³³ It should also be noted that there are a host of other public and private programs available in addition to the City's proposal here. For example, the Association of Faith Communities' (AFC) church parking program provides another 20 parking spots in the City. AFC refers to its program as the "Safe Spaces Parking Program", and hosts free overnight vehicle stays for unsheltered individuals that sleep in their vehicles.

³⁴ The ticket cost for violating the oversized vehicle ordinance is \$50 per infraction; however, upon discovering an oversized vehicle user parked on City streets between the hours of midnight and 5am, City personnel will direct oversized vehicle users to one of the safe parking programs in lieu of ticketing.

³⁵ The City's website currently houses information on the Safe Parking Program and has dedicated phone numbers for people to call about Tier 2 and Tier 3 spaces. See <https://www.cityofsantacruz.com/community/get-homelessness-services#:~:text=Tier%203%3A%2024%2F7%20Parking&text=How%20to%20Participate%3A%20To%20access,call%20831%2D515%2D8665>.

³⁶ The Commission also acknowledges that the City is committed to a host of other programs to address homelessness and broader social issues. In addition to this safe parking program, the City has, among other things, appointed a Homelessness Coordinating Committee, established a Community Advisory Committee on Homelessness, and helped to fund various homelessness response efforts, including providing monetary support to shelter programs. The City is also actively collaborating with Santa Cruz

supports local governments and other agency partners in their efforts to address the ongoing homelessness epidemic and better serve and provide services/resources to persons experiencing homelessness. In this instance, while there may remain some issues that need to be addressed by the Commission's conditions given the complexity and sensitivity of the issues implicated, the City's comprehensive safe parking program will help to mitigate the potential disproportionate public recreational access impacts that unsheltered individuals may experience.

The nighttime oversized vehicle parking restrictions (in combination with the City's suite of tools and programs to address homelessness), is the City's response to the identified and documented public safety, public health, and coastal resource issues that have arisen from long-term parking of oversized vehicles for habitation on public streets that are not equipped for such uses. The resulting disproportionate impacts on unsheltered populations stemming from the lack of affordable housing or adequate social services are also being addressed by the City, partially through this project's safe parking program and its other programs.

Conclusion

The Commission recognizes that a core component of its EJ Policy, and of the Coastal Act more broadly, is to maximize public recreational access to and along the coast. These issues are central in guiding the Commission's implementation of the Coastal Act, including ensuring that CDP decisions benefit all and do not unduly burden a select group. Claims that access is being hampered are not taken lightly and are given careful consideration. Based on a range of considerations, along with actions taken to increase participation and outreach, the project will help address procedural and substantive aspects that may result in disproportionate public access impacts on affected environmental justice communities. As such, the project can be found consistent with the Commission's environmental justice mandates.

4. Other

Although the Commission is providing the CDP to authorize the proposed program under the Coastal Act and the LCP, it is the City's program, and it is the City that must assume all risks associated with that program. See **Special Condition 5**.

In addition, Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), **Special Condition 6** requires the Applicant to reimburse any costs and attorney fees that the Commission incurs in connection with the defense of any action brought by a party other than the applicant challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP.

County and other local cities to identify 20 new locations for sheltering, as well as developing a more robust waste disposal and hygiene program for the unhoused.

E. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. The City, acting as lead CEQA agency, exempted the proposed development from environmental review (citing CEQA Sections 15307 (actions taken by regulatory agencies... to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment), 15308 (actions taken by regulatory agencies... to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment), and 15061(b) (common sense exemption)).

The Commission's review, analysis, and decision-making process for CDPs and CDPAs 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 analyzed the relevant coastal resource issues with the proposal, including with respect to comments received to date, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

Accordingly, the Commission finds that only as modified and conditioned herein will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

5. APPENDICES

A. Substantive File Documents³⁷

- Commission CDP Files for A-3-STC-07-057 (West Cliff Drive Parking Restrictions) and 3-20-0088 (Beach Management Plan)
- City of Santa Cruz CDP Number CP-21-0174 File
- Commission CDP A-3-STC-22-0018 Substantial Issue File
- City of Santa Cruz LCP

B. Staff Contact with Agencies and Groups

- Applicant (City of Santa Cruz Planning and Community Development Department and Public Works Department)

³⁷ These documents are available for review in the Commission's Central Coast District office.

A-3-STC-22-0018 (Nighttime Oversized Vehicle Parking Restrictions)

- John Do, ACLU
- Reginald Meisler, Santa Cruz Cares