

**CALIFORNIA COASTAL COMMISSION**

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# F14b

**DATE:** December 2, 2021

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, District Director  
Barbara Carey, District Manager  
Jacqueline Phelps, District Supervisor  
Denise Venegas, Coastal Program Analyst

**SUBJECT:** City of Santa Barbara Local Coastal Program Amendment No. LCP-4-SBC-21-0052-1 (Accessory Dwelling Unit) for December 17, 2021 Commission Meeting

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## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission, after public hearing, reject proposed City of Santa Barbara Local Coastal Program (LCP) Amendment No. LCP-4-SBC-21-0052-1 as submitted, and approve the amendment only if modified pursuant to two suggested modifications. The motions to accomplish this recommendation are found starting on page 5 of this staff report.

The City of Santa Barbara (“City”) is requesting an amendment to the Implementation Plan /Coastal Zoning Ordinance (IP/CZO) portion of its certified Local Coastal Program (LCP) to regulate accessory dwelling units (ADUs) consistent with state law. The subject amendment would add and revise definitions for terms related to ADUs and add new provisions and development standards regarding ADU permitting and development. Currently, the City of Santa Barbara’s LCP allows for the development of secondary dwelling units within residential zones. The proposed amendment would delete all references and regulations specific to secondary dwelling units and add a new section that adds specific provisions relating to ADUs (e.g., square footage, building envelope, setbacks, height, parking, owner occupancy, etc.). Further, the amendment allows ADUs as permitted uses in all areas zoned for single-family or multi-family residential use as a primary use, including on lots with either an existing or proposed dwelling unit; prohibits ADUs in a location that would conflict with the coastal resource protection policies of the City’s Land Use Plan (LUP); and prohibits certain types of ADUs in high fire hazard zones.

Under the proposed amendment, no parking would be required for a Junior ADUs or an ADU located outside of these mapped areas if it met state ADU law criteria (i.e., if the subject ADU is less than a half-mile from public transportation, is located within an architecturally and historically significant district, is contained entirely within the permitted floor area of the existing primary residential unit or an existing accessory building, when on-street permits are

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required but not offered to the ADU occupant, and/or when located within 500 feet of a carshare vehicle). Additionally, when an existing garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of the ADU, those displaced parking spaces are required to be replaced on the same lot as the primary residential unit. This requirement for off-street parking for ADUs located within LUP mapped “Key Public Access Parking Areas” is consistent with the LUP’s public access policies because it ensures that on-street public parking spaces that facilitate coastal access are protected for public use, as the LUP requires.

Furthermore, the proposed amendment includes provisions regarding the review and approval of ADUs. Specifically, the amendment allows for attached ADUs, ADUs located in an existing accessory structure or in a proposed or existing primary residence, or Junior ADUs to be exempt from obtaining a Coastal Development Permit. Additionally, the amendment clarifies that a Junior ADU created from an existing bedroom and located entirely within an existing residence with no change in the building envelopment is not considered development. All other ADUs would require a coastal development permit (CDP), although the CDP would not require a public hearing consistent with state law. Lastly, the proposed amendment includes language that would allow ADUs to be approved under a Categorical Exclusion.

While the City has indicated that these exemption regulations were adopted in conformance with guidance issued by the Commission, upon further analysis and evaluation, staff believes that the Coastal Act does not allow for ADUs to be exempted from coastal permit requirements. Therefore, **Suggested Modifications One (1) and Two (2)** deletes language that exempts ADUs, ADUs located in an existing accessory structure or, a proposed or existing primary residence, or Junior ADUs from obtaining a CDP. These modifications ensure that the proposed amendment remains consistent with the permitting and exemption provisions of the certified IP/CZO and the Coastal Act.

Additionally, since ADUs and Junior ADUs are not listed as a category of development that is excluded from CDP requirements, **Suggested Modification Two (2)** also deletes language that would allow ADUs and Junior ADUs to be approved pursuant to a Coastal Exclusion. All ADUs, except for Junior ADUs not considered development (e.g., created from an existing bedroom and entirely within an existing residence with no change in the building envelopment), would require a Coastal Development Permit.

In conclusion, the City has carefully crafted ADU provisions that reflect the City’s unique coastal zone attributes and, at the same time, relax standards for ADUs overall to help incentivize and facilitate their construction. Further, the ADU provisions make clear that the coastal resource protection requirements of the certified LCP will apply to the development of ADUs. The result is a set of provisions that should adequately protect coastal resources as required by the LUP while at the same time facilitating an increase in ADUs and by extension, an increase in affordable housing stock in the City’s coastal zone.

For the reasons described in this report, Staff recommends that the Commission find that the IP/CZO amendment, only if modified as suggested, conforms with and is adequate to carry out the policies of the certified Land Use Plan.

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### Exhibits

[Exhibit 1 – LCP Amendment Proposed Text Changes in Strikethrough/Underline](#)

[Exhibit 2 – LUP Figure 3.1-2 “Key Public Access Parking Areas”](#)

## **I. PROCEDURAL OVERVIEW**

### **A. Standard of Review**

The Coastal Act provides:

**The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter. (Section 30513)**

**...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)**

**The Commission may suggest modifications... (Section 30513)**

**Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513... (Section 30514(b))**

Pursuant to Section 30512(c), the standard of review for the proposed amendment to the City's certified IP/CZO, pursuant to Sections 30513 and 30514(b) of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the City's certified LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified City of Santa Barbara LUP as guiding policies pursuant to Policy 1.2-1 of the LUP.

### **B. Procedural Requirements**

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City Council, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City Council's acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at the subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City Council's action in

accepting the suggested modifications approved by the Commission for this LCP Amendment is legally adequate. If the City Council does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

### **C. Public Participation**

Section 30503 of the Coastal Act requires the provision of maximum opportunities for public input in preparation, approval, certification and amendment of any LCP. The City held a series of public hearings on this amendment. The hearings were duly noticed consistent with the provisions of Section 13515 of Title 14 of the California Code of Regulations. Notice of the Coastal Commission's consideration of the subject amendment has been distributed to all known interested parties.

## **II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS FOR THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO) AMENDMENT**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce each resolution and a staff recommendation is provided.

### **A. DENIAL OF THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT AS SUBMITTED**

#### MOTION I:

**I move that the Commission reject City of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-SBC-21-0052-1 as submitted.**

#### STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in denial of the Implementation Plan/Coastal Zoning Ordinance Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

#### RESOLUTION TO DENY AS SUBMITTED:

The Commission hereby **denies** certification of the Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-SBC-21-0052-1 as submitted by the City of Santa Barbara, and adopts the findings set forth below on grounds that the Implementation Plan Amendment, as submitted, does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan

amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.

## **B. CERTIFICATION OF THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT IF MODIFIED**

### MOTION II:

**I move that the Commission certify City of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-SBC-21-0052-1 if it is modified as suggested in this staff report.**

### STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

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

### RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby **certifies** the City of Santa Barbara Implementation Plan\Coastal Zoning Ordinance Amendment No. LCP-4-SBC-21-0052-1, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the land use plan amendment may have on the environment.

## **III. SUGGESTED MODIFICATIONS**

The staff recommends the Commission certify the proposed IP/CZO amendment, with two suggested modifications as shown below. Existing language of the certified Implementation Plan/Coastal Zoning Ordinance is shown in straight type. Language proposed to be added by the City of Santa Barbara in this amendment is shown underlined. Language proposed to be deleted by the City of Santa Barbara in this amendment is shown as ~~strikethrough~~. Language recommended by Commission staff to be inserted is shown in double underlined. Language recommended by Commission staff to be deleted is shown in ~~double strikethrough~~.

## Suggested Modification No. 1

Section 28.44.070 shall be modified as follows:

...  
D. SINGLE FAMILY RESIDENCE EXEMPTION. Improvements to existing single-family residences ~~including an attached accessory dwelling unit or a junior accessory dwelling unit;~~ provided, however, that those improvements which involve a risk of adverse environmental effect shall require a coastal development permit, as provided ~~for~~ in Section 13250 ~~or Section 13553~~ of Title 14 of the California Administrative Code, as amended from time to time. ~~Attached accessory dwelling units and accessory dwellings units located in an existing accessory structure or in a proposed or existing primary residence that meet the requirements of Section 28.86 are exempt from obtaining a Coastal Development Permit. A junior accessory dwelling unit that is created from at least one existing bedroom and is entirely within an existing single-family residence and does not change the building envelope is not considered development and does not require a coastal development permit is not subject to the LCP.~~

## Suggested Modification No. 2

Section 28.86.100 shall be modified as follows:

Title 28.86.100 Permits and Processing.

All accessory dwelling units and junior accessory dwelling units shall comply with applicable state and local building codes and shall require approval of ~~either a Coastal Exemption, Coastal Exclusion, or Coastal Development Permit,~~ and a building permit and a Coastal Development Permit if required. The City shall ministerially approve or disapprove a complete building permit application for an accessory dwelling unit or junior accessory dwelling unit in compliance with time periods established by State law, following any applicable discretionary coastal permit approvals.

## IV. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE AMENDMENT, IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the proposed Implementation Plan/Coastal Zoning Ordinance (IP/CZO) Amendment as submitted and approval of the IP/CZO Amendment if modified as suggested in Section III (Suggested Modifications) above. The Commission hereby finds and declares as follows:

### A. Amendment Description and Background

The City of Santa Barbara is requesting an amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of its certified Local Coastal Program (LCP) to regulate accessory dwelling units (ADUs) consistent with recent changes to state housing law (including changes establish by Assembly Bills 68, 587, and 881, and Senate Bill 13, which all took effect on January 1, 2020). The subject amendment would add and revise definitions for terms related to ADUs and add new provisions and development standards

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regarding ADU permitting and development.

Currently, the City of Santa Barbara's LCP allows for the development of second dwelling units within residential zones (IP/CZO Section 28.94.030.Z). The proposed amendment would delete all references and regulations specific to secondary dwelling units and add a new section (Section 28.86) which adds specific provisions relating to ADUs (e.g., square footage, building envelope, setbacks, height, parking, owner occupancy, etc.). Further, the amendment allows ADUs as permitted uses in all areas zoned for single-family or multi-family residential use as a primary use, including on lots with either an existing or proposed dwelling unit; prohibits ADUs in a location that would conflict with coastal resource protection policies of the City's Land Use Plan (LUP); and prohibits certain types of ADUs in high fire hazard zones. Additionally, the amendment would revise other regulations that would continue to apply to ADUs and includes sale and rental terms and the owner-occupancy requirements for ADUs.

Under the proposed amendment, accessory dwelling units would be regulated under two categories of ADUs (Special ADU and Standard ADU). Special ADUs are specific types of smaller ADUs (in terms of size, height, and setbacks) and Junior ADUs that are allowed in any high fire hazard area pursuant to state housing law. Additionally, the proposed amendment allows for more than one Special ADU on a lot. Standard ADUs are typically larger ADUs and the proposed amendment does not allow for more than one standard ADU on a lot.

Regarding parking standards, the proposed provisions would not require off-street parking for Junior ADUs. Additionally, when an existing garage, carport, or covered parking structure is demolished or converted as part of ADU development, those displaced parking spaces shall be replaced on the same lot as the primary residential unit. All other ADUs require a minimum of one off-street parking space, except for ADUs located outside of key public access parking areas as delineated in Figure 3.1-2 of the City's LUP and incorporate at least one of the following measures to reduce parking demand: a) the ADU is located within a walking distance of one-half mile of a public transit stop; b) ADU is located within an architecturally and historically significant historic district; c) ADU is contained entirely within the permitted floor area of the existing primary residential unit or an existing accessory building; d) when on-street parking permits are required but not offered to the occupants of the ADU, or e) when there is a carshare vehicle located with a walking distance of 500 feet of the ADU.

Furthermore, the proposed amendment includes provisions regarding the review and approval of ADUs. Specifically, the amendment allows for attached ADUs, ADUs located in an existing accessory structure or in a proposed or existing primary residence, or Junior ADUs to be exempt from obtaining a Coastal Development Permit. Additionally, the amendment clarifies that a Junior ADU created from an existing bedroom and located entirely within an existing residence with no change in the building envelopment is not considered development. All other ADUs would require a coastal development permit (CDP), although the CDP would not require a public hearing (consistent with Government Code section 65852.2(j)). Lastly, the proposed amendment includes language that would allow ADUs to be approved under a Categorical Exclusion.

The full text of the City's proposed changes to the IP/CZO is included as Exhibit 1 of this report.

The City of Santa Barbara submitted the subject LCP Amendment to the Commission on July 15, 2021. The amendment submittal was deemed complete by Commission staff and filed on August 19, 2021. At its October 2021 Commission meeting, the Commission extended the 60-day time limit to act on the LCP amendment for a period not to exceed one year.

## **B. Consistency Analysis**

Pursuant to Section 30513 and 30514 of the Coastal Act, the standard of review for the proposed amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) portion of the certified LCP is whether the proposed amendment would be in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP) component of the certified LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LUP as guiding policies pursuant to Policy 1.2-1 of the LUP.

### **1. Public Access and Recreation**

The LCP contains objectives, policies, and other provisions designed to protect and provide for maximum public access and recreational opportunities, as well as to encourage free and lower cost opportunities. These provisions require that existing public access and visitor-serving opportunities be protected and enhanced, that barriers to such opportunities be reduced, and that public access parking, including explicitly on-street parking spaces, be protected for public use. These LUP provisions include:

LUP Policy 3.1-1 states:

Maximum Public Access. As outlined in Coastal Act 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.

LUP Policy 3.1-15 states:

Coastal Access Parking. Maximize, maintain, improve, and promote efficient use of the parking supply for public access to the shoreline, coastal recreation areas, Stearns Wharf, and the Harbor. Where appropriate and feasible, continue to provide public parking facilities that are distributed throughout the Coastal Zone so as to provide convenient access to the shoreline and to avoid the impacts of overcrowding or overuse of any single area.

LUP Policy 3.1-29, in relevant part, states:

Off-Street Parking for New Development and Substantial Redevelopment.

A. Parking standards in the Zoning Ordinance are designed to ensure sufficient off-street parking is provided for new development and substantial redevelopment so as to avoid significant adverse impacts to public access to the shoreline and coastal recreation areas. Off-street parking for new development and substantial redevelopment, therefore, shall be consistent with the Zoning Ordinance.

LUP Policy 3.1-30 states:

Preserve Existing Key Public Access Parking. Preserve public parking in existing Key Public Access Parking Areas (see Policy 3.1-35 Locations of Key Public Access Parking Areas) where safe, appropriate, and feasible. Permanent restrictions or reductions of public parking in Key Public Access Parking Areas (including seasonal restrictions) shall only be allowed if the restriction or reduction does not result in a significant adverse impact to public access to the shoreline and coastal recreation areas. Mitigation required to avoid a significant adverse impact to public access shall include the provision of 1:1 replacement parking or a comparable mitigation measure such as providing facilities for active transportation. The evaluation of impact(s) of a restriction or reduction of public parking may include public access mitigation measures proposed as part of the project (e.g. bus stop enhancements, bicycle parking, etc.). Mitigation shall be implemented prior to or concurrent with implementation of the restriction or reduction of public parking.

LUP Policy 3.1-35 states:

Locations of Key Public Access Parking Areas. The following are Key Public Access Parking Areas (public parking lots and on-street parking), as shown on Figure 3.1-2 Key Public Access Parking Areas, that provide public access to the shoreline, coastal recreation areas, Stearns Wharf, the Harbor, and existing lease space on City owned property in the Waterfront Beaches/Harbor Component Area and County owned property at Arroyo Burro County Beach Park:

- A. On-street parking in the pull-out along Cliff Drive from the westerly City boundary to 350 feet east towards Sea Ledge Lane (for access to Cliff Drive Overlook);
- B. Arroyo Burro County Beach Park public parking lot (for access to Arroyo Burro Beach and Douglas Family Preserve);
- C. On-street parking along Alan Road from Cliff Drive to Wade Court (for access to Arroyo Burro Beach and Douglas Family Preserve);
- D. On-street parking along Borton Drive from its terminus at Douglas Family Preserve to Linda Road, Linda Road from Borton Drive to Mesa School Lane, Mesa School Lane from its terminus at Douglas Family Preserve to Linda Road, Medcliff Road from Balboa Drive to Selrose Lane, Selrose Lane from Balboa Drive to La Jolla Drive, and La Jolla Drive (for access to Douglas Family

Preserve);

E. On-street parking along Mesa Lane from Edgewater Way to Selrose Lane and Medcliff Road from Mesa Lane to Via Sevilla (for access to Mesa Lane Stairs);

F. La Mesa Park public parking lot (for access to La Mesa Park);

G. On-street parking along Santa Cruz Boulevard from its terminus at Thousand Steps to Pacific Avenue (for access to Thousand Steps);

H. Shoreline Park public parking lots (for access to Shoreline Park);

I. On-street parking along Shoreline Drive from La Marina Drive to 300 feet west towards Las Ondas and La Marina Drive from Shoreline Drive to Del Oro (for access to Shoreline Park and Leadbetter Beach);

J. La Playa and Leadbetter public parking lots (for access to Leadbetter Beach);

K. Harbor public parking lots (Main, Boat Launch Ramp, Commercial/90 Minute, and West) and on-street parking along West Cabrillo Boulevard (for access to the Harbor and West Beach);

L. Palm Park and Garden Street public parking lots (for access to East Beach and Stearns Wharf);

M. Stearns Wharf public parking lots (for access to Stearns Wharf);

N. On-street parking along Calle Puerto Vallarta from East Cabrillo Boulevard to South Milpas Street, South Milpas Street from Calle Puerto Vallarta to East Cabrillo Boulevard, and East Cabrillo Boulevard (for access to East Beach);

O. Casa Las Palmas, Fess Parker Hotel public parking lot adjacent to South Milpas Street and Calle Puerto Vallarta, Cabrillo West, and Cabrillo East public parking lots (for access to East Beach); and

P. Andrée Clark Bird Refuge public parking lot (for access to the Andrée Clark Bird Refuge).

The LUP requires that coastal access be provided and protected, including specifically in terms of on-street public parking and lower-cost visitor opportunities. Specifically, LUP provisions speak to protecting on-street public parking, prohibiting restrictions on public parking that would adversely affect public access to beaches, trails, or other recreational lands, and minimizing barriers to public coastal access to the maximum extent feasible. In addition, the LUP explicitly requires that on-street public parking be protected (enhanced even) and requires that new development provides for its own parking needs off-street. As a result, any proposed IP provisions that do not do so would be inconsistent with the LUP.

As a general rule, residential development generates parking needs, including when existing garages, carports, or other designated parking locations are converted into livable space (which can actually increase site parking demand while simultaneously decreasing site parking supply). Where a site does not accommodate all of its parking demand on-site and off-street, such parking demand is pushed onto adjacent public streets and rights-of-way. That, in turn, reduces the availability of on-street parking for coastal visitors, including

most importantly in areas of the coast at or near significant public accessways. Recent updates to the ADU laws restrict the circumstances when local governments can require that parking demand associated with ADU-generated residential needs be accommodated onsite, but these laws explicitly do not supersede the Coastal Act and by extension, the LUP that implements it locally and is the standard of review here. The LUP is clear that public on-street coastal access parking is a critical coastal resource in the City and doesn't allow it to be adversely impacted.

To address this issue, through its Land Use Plan update in 2019, the City identified and mapped the most critical of these on-street public parking areas (known as "Key Public Access Parking Areas") in its coastal zone in order to preserve the supply of existing public access parking within these areas. These areas are shown on LUP Figure 3.1-2 "Key Public Access Parking Areas" (Exhibit 2). In addition, the LUP Key Public Access Parking Areas policies (3.1-30 and 3.1-35) define the primary use of these areas and specify the types of permanent restrictions, alterations, and/or reductions in public parking that require an evaluation of impacts to public access to the shoreline and coastal recreation areas.

In these areas, the City generally found there was potential for adverse impacts to the public's ability to access the beach if ADU projects did not properly account for their parking needs on-site, and thus the proposed amendment requires that all parking demand be accommodated on-site within these key public parking areas. Under the proposed amendment, no parking would be required for a Junior ADUs or an ADU located outside of these mapped areas if it met state ADU law criteria (i.e., if the subject ADU is less than a half-mile from public transportation, is located within an architecturally and historically significant district, is contained entirely within the permitted floor area of the existing primary residential unit or an existing accessory building, when on-street permits are required but not offered to the ADU occupant, and/or when located within 500 feet of a carshare vehicle). Additionally, when an existing garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of the ADU, those displaced parking spaces are required to be replaced on the same lot as the primary residential unit. This approach in requiring off-street parking for ADUs located within LUP mapped "Key Public Access Parking Areas" is consistent with the LUP's public access policies because it ensures that on-street public parking spaces that facilitate coastal access are protected for public use, as the LUP requires.

In this case, the City's proposed ADU amendment strikes an appropriate balance that will encourage ADUs in the coastal zone while protecting public access in key public access parking areas of the City of Santa Barbara's coastal zone, as more specifically described in proposed Section 28.86.080, consistent with the City's certified LUP as it applies to these mapped key public access parking areas. Accordingly, the proposed Implementation Plan/Coastal Zoning Ordinance amendment conforms with and is and adequate to carry out the applicable access and recreation policies of the certified Land Use Plan.

## **2. New Development**

The City of Santa Barbara Land Use Plan (LUP) includes several policies requiring the protection of coastal resources, including requiring that development be sited and designed

in such a way as to avoid significant adverse impacts on such resources. These provisions include:

LUP Policy 2.1-16 states:

Siting of New Development. As outlined in Coastal Act Section 30250(a), new and substantially redeveloped residential, commercial, or industrial development, except as otherwise provided in the Coastal LUP, 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.

LUP Policy 2.1-2 states:

Accessory Dwelling Units. The City may allow accessory dwelling units, which tend to be more affordable than standard housing, so long as such development is found consistent with the policies of the Coastal LUP.

LUP Policy 2.1-16 requires new development to be sited within, contiguous with, or in close proximity to existing development and where the development would not have significant adverse impacts on coastal resources. To ensure that new development is consistent with Section 30250 of the Coastal Act (incorporated by reference into the certified LUP), the siting and design of new development must adhere to the requirements of other applicable policies of the certified LUP. Such policies include, but are not limited to, policies and provisions regarding the protection of environmentally sensitive habitat areas, public access, and scenic and visual resources.

The Commission is aware that the state has a housing crisis, and in particular an affordable housing crisis, and those issues are only more acute in the state's coastal zone. To address this critical need, the state legislature has enacted a number of housing laws in the last several years that are designed to eliminate barriers to providing housing, and to help foster additional housing units—particularly critically needed affordable units—where they can be appropriately accommodated by adequate public services and where, in the coastal zone, they will not adversely affect coastal resources. Toward this end, the 2019-2020 legislative session included a series of changes to state housing law designed to facilitate more ADUs and affordable housing units. Those changes have triggered the need for jurisdictions in the coastal zone to update their LCPs to address requirements affecting the development of ADUs. Importantly, state law continues to explicitly require that the Coastal Act's (and by extension LCPs') coastal resource protections be incorporated into the process when considering ADUs, and thus, updated local government ADU provisions must continue to ensure coastal resource protection. In short, the goal of updating LCPs related to ADUs is to harmonize the state ADU/Junior ADU housing laws changes with the Coastal Act in a way that continues to protect coastal resources while also reducing and eliminating barriers to ADUs. Here, the City of Santa Barbara has done just that with this proposed LCP amendment. Importantly, the City also worked with the California Department of Housing and Community Development (HCD), the agency charged with enforcing new state ADU laws, and HCD has not registered any objections to the proposed

amendment.

Much of the City of Santa Barbara's coastal zone consists of already-developed residential areas with adequate public services that may be appropriate for in-fill ADU development, both inside and outside of the coastal zone. Within the coastal zone, there are also substantial areas within the City where ADUs could likely be developed with no impacts to coastal resources. Thus, at a broad level, the proposed IP/CZO amendment should help achieve the streamlining objectives of the state ADU and housing legislation while helping further the City's own housing goals as specified in the LCP. In areas where there are potential coastal resource issues, there are tools readily available to help foster ADU construction while simultaneously appropriately protecting those resources. For example, in Santa Barbara, there are certain areas where coastal resource issues may preclude ADUs, but these same issues would preclude any development in such areas (e.g., locations that would require shoreline armoring, in environmentally sensitive habitat areas, in wetlands, or in areas where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime, etc.). The proposed amendment makes clear that the coastal resource protection requirements of the certified LCP will apply to the development of ADUs.

LUP Policy 2.1-2 further states that the City may allow accessory dwelling units so long as such development is found consistent with the policies of the Coastal LUP. Specifically, the amendment includes language (Section 28.86.030.C.1) that prohibits ADUs in a location that would conflict with the resources protection policies of the City's LUP.

For the reasons stated above, the Commission finds that the Implementation Plan/Coastal Zoning Ordinance amendment conforms with and is adequate to carry out the coastal resource protection policies of the certified Land Use Plan.

### **3. Coastal Development Permit Requirements**

The City's IP/CZO requires coastal development permit authorization for proposed development within the Coastal Zone:

In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City, unless the development involves emergency work subject to the provisions of Section 28.44.100 or the development is subject to one of the exclusions or exemptions specified in Section 28.44.070.

Certified IP/CZO Section 28.44.040 defines "development" as follows:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits,

except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

Certified IP/CZO Section 28.44.070 sets forth provisions for exempting certain types and classes of development from the need to obtain a CDP:

The following categories of development, through the end of this section, are exempt from the coastal development permit requirements of this chapter pursuant to Section 30610 of the Public Resources Code and Section 13250-13253 of Title 14 of the California Administrative Code.

D. SINGLE FAMILY RESIDENCE EXEMPTION. Improvements to existing single-family residences; provided, however, that those improvements which involve a risk of adverse environmental effect shall require a coastal development permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

...

#### Coastal Act and California Code of Regulations Policies

Section 30610 of the Coastal Act, in relevant part, states:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for... improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter.

Section 13250 of Title 14 of the California Code of Regulations, in relevant part, states:

(a) For purposes of Public Resources Code Section 30610(a) where there is an existing single-family residential building, the following shall be considered a part of that structure:

- (1) All fixtures and other structures directly attached to a residence;
- (2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units; and
- (3) Landscaping on the lot.

(b) Pursuant to Public Resources Code Section 30610(a), the following classes of development require a coastal development permit because they involve a risk of adverse environmental effects:

(1) Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff.

(2) Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas;

(3) The expansion or construction of water wells or septic systems;

...

In addition to the above mentioned provisions, the City has also adopted a categorical exclusion order (Categorical Exclusion Order No. E-86-3) which was approved in 1985 and amended (Categorical Exclusion Order No. E-06-1) in 2006. The order excludes the following categories of development from the requirement to obtain a CDP: (1) construction of one single-family residence on an existing vacant parcel in the area designated as non-appealable on the City of Santa Barbara's Post-LCP Certification Permit and Appeal Jurisdiction Map; and (2) demolition and reconstruction of an existing single family residence in the area designated as non-appealable on the City's Post-LCP Certification Permit and Appeal Jurisdiction Map, unless the application for demolition and reconstruction of an existing single family residence is on a lot that either: (a) contains a City Landmark or Structure of Merit, (b) contains or is within 100 feet of archaeological or paleontological resources, or (c) contains or is within 100 feet of an environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped, then the application shall require a coastal development permit.

As proposed, the subject amendment would add an additional CDP exemption to IP/CZO Section 28.44.070(D) to allow for attached ADUs, ADUs located in an existing accessory structure or a proposed or existing primary residence, or Junior ADUs, which are consistent with the requirements of IP/CZO Section 28.86 (i.e., the proposed new ADU regulations section) without issuance of a CDP. It's important to note that the City included this additional CDP exemption using the guidance contained in the Commission's April 21, 2020 "Implementation of New ADUs Laws" Memo to Planning Directors of Coastal Cities and Counties.

Coastal Act Section 30610(a) states that improvements to existing single-family residences (SFR) are exempt from Coastal Act permitting requirements unless they are of a type that the Commission's regulations identify as involving a risk of adverse environmental effects. Section 13250 of the Commission's regulations provides greater detail on what is allowed as exempt improvements to SFRs. Relevant here, Section 13250(a) clarifies what is considered to be a part of an existing SFR and can therefore be improved without the need for a coastal development permit. Section 13250(a)(2) specifically excludes guest houses

and self-contained residential units from the list of structures on the property that are normally associated with a SFR and that may be approved pursuant to an exemption determination. However, Section 13250(a)(1) states that all fixtures and other structures directly attached to a residence are also considered to be a part of the SFR, but does not refer to, or exclude, guest houses or self-contained residential units from the list of structures associated with a SFR and allowed to be improved without a permit. For this reason, the Commission has in the past advised that ADUs that are attached to a SFR may be exempt but that detached ADUs may not be exempt.

Upon further consideration, the Commission finds that this distinction is inapt and does not carry out the intent of Section 30610 of the Coastal Act, which is to only exempt improvements to an existing SFR, rather than to also exempt the creation of new residential units. The purpose of Section 13250 is to describe certain classes of development that involve a risk of adverse environmental effects and therefore require a permit. But exempting ADUs that are attached to a SFR, but not ones that are detached, is not based on the difference in impacts on coastal resources that such types of structures would have. Both attached and detached ADUs could be equally subject to coastal hazards and could have equal impacts on views, habitat, and other resources. Accordingly, the provision should be interpreted in a protective manner and in a way that is most consistent with Section 30610(a) of the Coastal Act. Section 30610(a) only exempts improvements to existing SFRs, rather than the creation of new residences, even if they happen to be attached to an existing SFR. For these reasons, the Commission finds that the creation of a self-contained living unit, in the form of an ADU, is not an “improvement” to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property. The Commission therefore rejects the proposed LCP Amendment’s creation of CDP exemptions for certain classes of ADUs.

As described above, the proposed amendment language exempts most ADUs from CDP requirements. **Suggested Modification One (1)** would delete language to IP/CZO Section 28.44.070(D) that exempts attached ADUs, ADUs located in an existing accessory structure or, a proposed or existing primary residence, or Junior ADUs from obtaining a CDP. This modification ensures that Section 28.44.070(D) remains consistent with the permitting and exemption provisions of the certified IP/CZO and Coastal Act. Furthermore, **Suggested Modification One (1)** adds clarifying language that a Junior ADU that is created from a least one existing bedroom and is entirely within an existing single-family residence and does not change the building envelope is not considered development and does not require a CDP. While it is appreciated that the City adhered to previous guidance from the Commission, the Commission’s current position on ADUs and Junior ADUs is they require a CDP in the vast majority of circumstances and should not be automatically exempted. Commission staff has coordinated with City staff regarding this topic, and the changes recommended in the suggested modifications were developed in cooperation with City staff.

Further, the amendment would include permit and processing provisions (Section 28.86.100) for ADUs under the proposed new ADU regulations Section 28.86. The amendment language states that ADUs and Junior ADUs shall obtain either a Coastal

Exemption, Coastal Exclusion, or Coastal Development Permit, and a building permit. However, as described above, in order to remain consistent with the permitting and exemption provisions of the certified IP/CZO and Coastal Act, Commission staff finds it necessary to require **Suggested Modification Two (2)** to delete language that would allow ADUs and Junior ADUs to be approved pursuant to a Coastal Exemption.

Additionally, the amendment includes language that would allow the approval of certain ADUs and Junior ADUs under a Coastal Exclusion (Categorical Exclusion Order No. E-06-1). However, under Categorical Exclusion Order No. E-06-1<sup>1</sup>, ADUs are not listed as a category of development that is excluded from CDP requirements. Therefore, **Suggested Modification Two (2)** also deletes language that would allow ADUs and Junior ADUs to be approved pursuant to a Coastal Exclusion. All ADUs, except for Junior ADUs not considered development (e.g., created from an existing bedroom and is entirely within an existing residence with no change in the building envelopment), would require a Coastal Development Permit.

In conclusion, the City has carefully crafted ADU provisions that reflect the City's unique coastal zone attributes and, at the same time, relax standards for ADUs overall to help incentivize and facilitate their construction. The result is a set of provisions that should adequately protect coastal resources as required by the LUP, while at the same time facilitating an increase in ADUs and by extension, an increase in affordable housing stock in the City's coastal zone. Thus, the proposed Implementation Plan/Coastal Zoning Ordinance amendment, as suggested to be modified, conforms with and is adequate to carry out the policies of the certified Land Use Plan.

### **C. California Environmental Quality Act**

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

Nevertheless, the Commission is required, in approving an LCP submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f) and 13555(b).

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<sup>1</sup> Pursuant to Section 13225 of Title 14 of the California Code of Regulations, an amendment to a Categorical Exclusion Order to add ADUs as a type of development that is excluded from CDP requirements would require a separate request by the local government.

As discussed above, the City's IP/CZO amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the Land Use Plan (LUP). The Commission has, therefore, suggested modifications to the proposed IP/CZO to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act and CEQA. For the reasons discussed in this report, the LCP amendment, as suggested to be modified, conforms with and is adequate to carry out the coastal resources protection policies of the certified LUP. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP/CZO amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP/CZO amendment into conformity with the LUP consistent with the requirements of the Coastal Act. Therefore, the Commission finds that the proposed LCP amendment, as suggested to be modified, is consistent with CEQA.