

RESOLUTION NO. 65-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP-437-22 (FILE NO. 2022-012), SUBJECT TO CONDITIONS, TO ESTABLISH ONE ON-STREET TEMPORARY SAFE PARKING PROGRAM PARKING SPACE ON THE WEST SIDE OF THE FRANCISCO BOULEVARD PUBLIC RIGHT-OF-WAY, EAST OF 2400 FRANCISCO BOULEVARD (APN 016-322-230) AND APPROXIMATELY 32 FEET NORTH OF THE CLARENDON ROAD AND FRANCISCO BOULEVARD INTERSECTION, AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

Initiated by: City of Pacifica ("Applicant")

WHEREAS, on February 28, 2022, the City of Pacifica City Council adopted Resolution No. 12-2022 to approve a three-year Temporary Safe Parking Program ("Program") in the City of Pacifica which provides up to 13 parking spaces for Program participants living in an operational recreational vehicle, trailer or motorhome with operating toileting facilities a temporary parking space for a limited period of time while participants try to find permanent housing solutions; and

WHEREAS, the Program includes the establishment of one on-street Program parking spaces (total size of 30' by 10') on the west side of the Francisco Boulevard public right-of-way (ROW), east of 2400 Francisco Boulevard (APN 016-322-230) and approximately 32 feet north of the Clarendon Road and Francisco Boulevard intersection. Improvements, including installation of two pole signs and pavement markings, will be used to designate the area of public ROW being reserved for the Program parking space (File No. 2022-012) ("Project"); and

WHEREAS, the Program was found to be exempt under the California Environmental Quality Act ("CEQA") Class 1 and 4 exemptions under CEQA Guidelines Sections 15301 and 15304 and the "Common Sense" exception, CEQA Guidelines Section 15061(b)(3); and

WHEREAS, the Project requires approval of a coastal development permit pursuant to Pacifica Municipal Code (PMC) Section 9-4.4303 on the basis that the Project constitutes "development," as defined in PMC Section 9-4.4302(z)(7), and the Project does not qualify as a category of excluded development; and

WHEREAS, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on May 16, 2022, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference; and

WHEREAS, the Planning Commission of the City of Pacifica adopted Resolution No. 2022-012, finding the Project exempt from the California Environmental Quality Act and approving Coastal Development Permit CDP-437-22 on May 16, 2022; and

WHEREAS, North Coast County Water District ("Appellant" or "District") filed an appeal ("Appeal") of the Planning Commission's decision to adopt Resolution No. 2022-012 on May 26, 2022;

WHEREAS, the City Council of the City of Pacifica did hold a duly noticed public hearing on July 11, 2022, and continued the public hearing to August 8, 2022; and

WHEREAS, the City Council of the City of Pacifica did hold a duly noticed public hearing on August 8, 2022, and continued the public hearing to September 26, 2022; and

WHEREAS, the City Council of the City of Pacifica did hold a duly noticed public hearing on September 26, 2022, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Pacifica as follows:

- A. The above recitals are true and correct and material to this Resolution.
- B. In making its findings, the City Council relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby deny the Appeal and upholds the Planning Commission’s Approval on May 16, 2022 of the project, and makes the following findings pertaining to this denial of the Appeal of the Planning Commission’s action:

Basis 1. “The Temporary Safe Parking Program (“Program”) is inconsistent with the City’s adopted Local Coastal Program.”

Response: : The Appellant claims that if the City is unable to meet all applicable Local Coastal Program (“LCP”) policies related to housing, then the only legal option is to move all housing and temporary parking locations outside of the City’s Coastal Zone. This statement is inaccurate and misstates the requirements for the Planning Commission findings required for the issuance of a Coastal Development Permit pursuant to PMC section 9-4.4304(k) as further supplemented by the discussion below. Staff has also found that the Project is consistent with the applicable policies of the Local Coastal Land Use Plan (“LCLUP”).

The Appellant contends that the May 16, 2022 Planning Commission staff report cited Coastal Act Policy Nos. 2 and 5 for purpose of seeking a blanket determination that the Program is consistent with the City’s LCP. This statement is incorrect. As explained in the May 16 Planning Commission staff report the LCP consists of the LCLUP and the Implementation Plan (“IP”). The staff report identifies LCLUP Coastal Act Policy Nos. 2 and 5 as applicable policies as the Project would support both Policies. No regulations in the IP are applicable to the Project.

The Appellant claims that if the City should consider the Project as housing then all other applicable housing policies should apply and cites Coastal Act Policy Nos. 23, 25, and portions of 26. The finding to support the Project’s consistency with Coastal Act Policy No. 5 identifies the Project as a temporary housing opportunity because Program participants will be working with PRC to find long-term housing and be provided a temporary place to park their OSV. Staff notes that Coastal Act Policy Nos. 23, 25, and 26 are not specific to housing developments, however staff addresses each of these policies as cited by the Appellant below.

Coastal Act Policy No. 23 states:

New development, except as otherwise provided in this policy, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. Where feasible, new hazardous industrial development shall be located away from existing developed areas. Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

This policy requires that new development is “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it.” The Project site is an existing developed street. Furthermore, the Project is immediately surrounded by existing developed areas, including the District’s headquarters (2400 Francisco Boulevard, APN 016-322-230) to the west, State Route 1 to the east, and residential uses to the north, and a mix of commercial and residential uses to the south of the Project site along Francisco Boulevard. Because the Project site is located near existing developed areas, the criteria for new development in areas not near existing developed areas does not apply. Regardless, staff notes that the Program, which would support the Project site, requires Participants to have an operational recreational vehicle with operating toilets. The Program will provide Participants with public services such as regular access to water at PRC’s facility, regular access to black and gray water disposal facilities, and regular access to solid waste and recycling facilities. The policy does not define “adequate public services” as utility connections for sewer, water, heating or air conditioning as implied by the Appellant. Finally, the remaining language of Coastal Act Policy No. 23 is not applicable as the Project does not include land divisions, new hazardous industrial development, or visitor-serving facilities.

Coastal Act Policy No. 25 states:

The location and amount of new development should maintain and enhance public access to the coast by:

- (a) Facilitating the provision or extension of transit service;
- (b) Providing commercial facilities within or adjoining residential development, or in other areas that will minimize the use of coastal access roads;
- (c) Providing non-automobile circulation within the development;
- (d) Providing adequate parking facilities or providing substitute means of serving the development with public transportation;
- (e) Assuring the potential for public transit for high intensity uses such as high-rise office buildings; and
- (f) Assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with, the provision of on-site recreational facilities to serve the new development.

The Appellant claims that new housing must enhance public access, using options in the policy, which Appellant believes were not met by the Project. The Project is not at the scale that would necessitate or allow for implementation of many of these enhancements for public access because:

- (a) The Project would occur within an existing public right-of-way (“ROW”) and wouldn’t establish a new area that would require an extension of transit service. The Project would simply establish one on-street Program parking space and installation of street markings and signage to the public ROW, thus the Project wouldn’t impact existing public transit service.
- (b) The Project doesn’t include commercial facilities and the Project site is already in the immediate vicinity of

commercial uses. The Project will also not minimize the use of coastal access roads as the Project is located in the ROW and will not impede any vehicular access to vehicles traveling in the area. (c) The Project site is 30' by 10' and would not be large enough to accommodate non-automobile circulation within the development. Additionally, an existing public sidewalk would be maintained immediately west of the Project site. (d) The Project is to provide a parking space and therefore the Project would meet this public access provision by its own design. Additionally, as analyzed in the May 16 Planning Commission staff report, adequate visitor-serving parking is available in the vicinity of the Project. (e) The Project does not include high intensity uses. Additionally, the project wouldn't impact existing public transit service. (f) At most, the Project would establish a parking space to provide a temporary opportunity for Program participants to park for 30 days at a time in one location. The Program would prioritize existing residents of Pacifica and therefore it is likely the participants would not be new residents. However, even if there are new residents, they will not overload nearby coastal areas as there are only 5 parking spaces in the Program that are in the coastal zone and existing nearby recreational areas, such as Sharp Park Beach, Sharp Park Golf Course, Brighton Park, and other nearby recreational facilities would be adequate to accommodate the participants.

Coastal Act Policy No. 26 states:
New development shall:

[...]

- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The Appellant identifies the above portion of Coastal Act Policy No. 26 as applicable to the Project and claims that it is unlikely Program participants will meet all existing air quality, energy efficiency or noise regulations. Staff maintains that the Project is not at the scale that would necessitate or allow for implementation of many of these provisions for new development; however, to the extent applicable the Project is consistent because:

- (a) The Planning Commission conditioned the Project as detailed in Resolution No. 2022-012 to require Program Participants to comply with all Bay Area Air Quality Management District regulations applicable to generators proposed for operation at the Program spaces. This condition is consistent with requirements imposed by the air pollution control district. Additionally, the Program would require the Participants to have current State vehicle registration. Air quality requirements associated with the vehicle would be addressed through the State vehicle registration process. (b) The Project would establish a parking space to provide a temporary parking space that requires very little development since the existing public street facility is being used. Therefore, the Project would require minimal energy consumption. Additionally, the Program would prioritize Participants that are existing Pacifica residents who are likely to have established connections, such as work, school, family, and friends in the area. By providing a temporary parking space in the area that Participants already reside in, the Project will reduce the number of vehicle miles traveled compared to an alternative outside of Pacifica. Moreover, participants in the Program parked in the designated parking spaces do not have to move their vehicles every 72 hours to a new parking space thus reducing the number of trips that their vehicles have to take. (c) The Project would have no impact on the special character and neighborhood of West Sharp Park as oversized vehicles are currently able to park along Francisco Boulevard.

No City noise regulations are applicable to the Project itself because the Project is the establishment of the parking space in an area that already allows parking and the installation of street markings and signage. The Program participants would be required to comply with the Program's Code of Conduct as codified in Pacifica Municipal Code Section 4-7.1207(e)(1). The Code of Conduct would require the Program participants to maintain quiet hours between 10pm and 8am and turn off generators at that time. Program participants would be subject to the City's noise ordinance in Chapter 10, Title 5 of the Pacifica Municipal Code.

For the reasons provided above, the City Council rejects this basis of appeal.

Basis 2. "The Program will interfere with the District's ability to provide essential public services and with the District's construction of its new headquarters."

Response: The Appellant claims that the Project would negatively impact emergency operations at their facility by inhibiting the flow of traffic and parking in and around the facility, however the Appellant provides no evidence to support these statements. The District's headquarters currently has three driveway entrances to access their site. Two entrances are located on the south side of the property along Clarendon Road and one entrance is located on the east side of the property along Francisco Boulevard. Between the District's Francisco Boulevard driveway entrance and the Clarendon Road and Francisco Boulevard intersection to the south, the west side of the Francisco Boulevard ROW contains approximately 87 feet of curb space available for parking as well as approximately 24 feet of red curb which is located closest to the intersection. The proposed location of the Project would abut the north end of the red curb and consume 30 feet of the available 87 feet of curb space. A condition of approval added by the Planning Commission on May 16 would also add 5 feet of red curb on the north side of the Project site. This would result in approximately 52 feet of available curb between the northern extent of the new red curb for the Project site and the District's Francisco Boulevard driveway entrance. Approximately 52 feet of curb length is more than a reasonable distance to conclude that the Project would not inhibit flow of traffic into the District's Francisco Boulevard driveway entrance. Furthermore, typical street parking would continue to occur along the remaining curb space between the Project site and the Francisco Boulevard driveway entrance as currently allowed. The Project would have no impact on inhibiting the flow of traffic into the District's two Clarendon Road driveway entrances because the Project site is located along Francisco Boulevard.

The Appellant's claim that the Project would inhibit parking around the District's headquarters by consuming parking that could be used by emergency response staff during times of an emergency or by their construction contractor during an anticipated future renovation project are unsubstantiated. The Project site is currently used by the public for on-street parking and is not reserved for the use of emergency response staff. Therefore, the Appellant's implication that the Project site is available for emergency response staff at any given time is inaccurate. Additionally, property owners are required to provide adequate parking facilities for the use on the site and are unable to claim public ROW as parking space required and reserved for their use. The Appellant's District headquarters has 12 on-site parking spaces. Finally, with regard to any future construction or development on the District property, no such future development is currently approved. The timing of any such future approval and subsequent construction is also unknown at this time and speculative. This is particularly relevant in light of the temporary duration of the Program and Project at this site. Should development on the District property be approved in the future, the District, like any other developer, would be responsible to accommodate construction parking on site or use public ROW as is available to the public. As the District is seeking approval of

development permits for their proposed headquarters renovations, the City will evaluate the parking impacts of the District’s project as appropriate.

For the reasons provided above, the City Council rejects this basis of appeal.

Basis 3. “The City is required to review the Program de novo, which encompasses the right to present additional evidence and claims.”

Response: The Appellant contends that any citizen has the right to appeal, present additional evidence on any appeal and be provided a de novo public hearing on appeal of a Planning Commission approval, or denial to the City Council. Appeals of Planning Commission decisions are generally governed by Article 36 of the Pacifica Municipal Code, which provides that the appeal shall be heard and determined according to the procedures set forth in PMC Section 9-4.3208. Subdivision (b) of Section 9-4.3208 provides that upon the receipt of the appeal, the Council may consider the appeal in one of the following ways:(1) By holding a public hearing, using the same procedures as set forth in Section 9-4.3302 of Article 33 of this chapter; or (2) By referral back to the Commission for reconsideration. Subdivision (c) of Section 9-4.3208 provides that upon considering the appeal, the Council may approve, deny, or modify the permit. Because the Council has the discretion to modify the development permit, Council’s review on appeal is indeed considered a de novo review and the Council can consider all aspects of a project considered by the Planning Commission – not simply the issues being appealed.

However, this review is limited to what was within the Planning Commission’s review jurisdiction. The Planning Commission’s action on May 16, 2022, was focused on determining whether the findings required for approval of the CDP could be made. The Planning Commission did not have the authority from City Council to review or consider alternative locations for the Project. Since this was not within the discretionary review authority of the Planning Commission, it would not be appropriate for the Council to consider alternative locations during the appeal hearing. The Council, pursuant to PMC Section 9-4.3208(c), may either approve, deny or modify the CDP approved by the Planning Commission and not the Program itself because the Program was approved by the Council through a separate process. The Planning Commission had no authority from City Council to review or consider alternative locations for the Project. Thus, it would not be appropriate for the Council to consider alternative locations during the appeal hearing. For the reasons provided above, the City Council rejects this basis of appeal.

Basis 4. “The City failed to provide adequate notice of the ordinance implementing the Program and must hold a new hearing on appeal to validate the ordinance.”

Response: : As indicated above in staff’s Response to Basis No. 3, the consideration of the Council is limited to the approval, denial or modification of the CDP issued by the Planning Commission. Because the issue of the validity of the Program implementation ordinance is not relevant to the issuance of a CDP, appeal Basis No. 4 should not be considered by the Council. However, even if validity of the ordinance were relevant, this contention is without merit.

While the Appellant claims that the City failed to provide the District with the specified mailed notice that is required for certain general plan and zoning code changes pursuant to Government Code Section 65091(a)(4), those provisions are only applicable to certain planning and land use matters. In the case of the Resolution adopting the Program and Ordinance No. 873 C.S., which implemented the Program (“Program Ordinance”) the City was not required to provide any notice pursuant to Government Code Section 65091 because (1) the City adopted the Program Ordinance

pursuant to Vehicle Code section 22507, not the Planning and Zoning Law; and (2) the Program Ordinance does not constitute an amendment to the City’s Planning and Zoning Code found in Title 9 of the PMC or the City’s General Plan because the Program Ordinance does not change any allowed land uses. The City’s regulations relating to parking are identified in Article 12, “Stopping, Standing and Parking Restricted or Prohibited of Chapter 7, Title 4, including the OSV Ordinance and other available parking permits. The Program Ordinance added a new Section 4-7.1207 to the PMC which, among other things, specifies various parameters for the use of Regular, Provisional, and Short-Term Permits under the Program. The Program Ordinance also amends PMC Section 5-2.03 to create an exemption from the City’s 72-hour parking limitation for vehicles displaying either a valid Regular Permit or Provisional Permit under the Program. These provisions would not be appropriately included in the City’s Planning and Zoning Code because the use of the ROW did not change.

The Program Ordinance is not a zoning ordinance simply because some of the parking sites are located within a coastal zone and provide a temporary housing opportunity. The coastal zone issue is only relevant to the question of whether certain parking sites need a Coastal Development Permit. Parking regulations in the ROW, such as the ones contained in the Program Ordinance, are adopted pursuant to Vehicle Code section 22507 and the City’s inherent police powers under California Constitution Article XI, Section 7 to address health and safety issues, among other concerns. They are located in Title 4 and 5 of the PMC and are not considered a land use regulated by the Planning and Zoning Code.

Even assuming arguendo that Appellant is correct, a failure to provide the requisite notice under Government Code Section 65091 does not invalidate the Program Ordinance. Pursuant to Government Code Section 65093, the failure of any person or entity to receive notice under the requirements of Sections 65090–65091, do not constitute grounds for a court to invalidate the actions for which the notice was given. Thus, Appellant’s request to invalidate the Program Ordinance would not be appropriate.

Finally, although Appellant claims that they did not receive adequate notice of the Program Ordinance, there were numerous opportunities for the Appellant to provide public comment on the Program and the Program Ordinance. For example, the City Council specifically considered the Program Ordinance at two public meetings: February 28, 2022 and March 14, 2022 where members of the public, including Appellant, could provide public comment. The agendas for these meetings were distributed by email to the email distribution list for those that have requested agendas, posted at City Council Chambers (2212 Beach Boulevard) and at Pacifica Community Center (540 Crespi Drive) where the Civic Center / City Hall offices are currently located as well as posted online on the City of Pacifica website via the meeting portal. Additionally, the City Manager highlighted the Safe Parking Program agenda topic in the Friday February 25, 2022 release of the City’s weekly e-newsletter “Connect With Pacifica” prior to the February 28, 2022 Council meeting where the agenda item and introduction of the ordinance was discussed. Appellant’s District Manager stated during the August 8, 2022 hearing that she does “... get notice of the Agenda and things and did see the TSPP was on for that agenda...” Thus, members of the public, including Appellant, were provided notice of the Program Ordinance prior to adoption.

For the reasons provided above, the City Council rejects this basis of appeal.

Basis 5. “The District and [sic] reserves the right to challenge the City’s determination for the parking and housing ordinance.”

Response: As indicated above in staff’s Response to Basis No. 3, the consideration of the Council is limited to the approval, denial or modification of the CDP issued by the Planning Commission. Since the issue of whether adequate notice of the ordinance implementing the Program was provided is not relevant to the issuance of a CDP, staff believes that this appeal Basis No. 5 should not be considered by the Council. However, if Council is inclined to consider this issue, staff provides the following information to refute this contention.

The Appellant argues that the Program or the Program Ordinance does not fit within the scope of the CEQA exemptions identified by the City because the Appellant contends that allowing long-term parking of RVs, which Appellant equates to “temporary housing,” will result in “potential air quality, noise and public services impacts.” These arguments are without merit.

First, with regard to the Class 1 exemption, Appellant contends that City ROW are not facilities subject to this exemption. However, that contention directly contradicts the language in Section 15301, which identifies existing highways and streets, sidewalks, gutters, etc. and similar facilities, as an example of facilities that are listed and subject to the Class 1 exemption. Section 15301 also specifies that the types of “existing facilities” itemized are not intended to be an all-inclusive list but rather the key consideration is whether the project involves negligible or no expansion of use. In this case, the Program will only involve a negligible expansion of use of existing City street facilities. Indeed, the Project merely includes reserving 30’ by 10’ of public ROW for the use by participants of the Program for a period of three years. The City is utilizing existing streets for parking of OSVs participating in the Program that will be signed and marked for the Program. The Project site is also currently used for OSV parking up to 72 hours by any individual OSV. Yet the space may be used continuously under existing regulations by any combination of different OSVs provided that no single OSV occupies the space for more than 72 hours. If the CDP is approved, the Project site will continue to be used for parking of OSVs by Program participants while the Program is being conducted. Additionally, Appellant argues that the Class 1 exemption would be inconsistent with the “separate findings that the City is intending to provide low-cost housing by allowing long term parking in these designated areas.” It is unclear what findings the Appellant is referring to as there is no such finding in the Program Ordinance. There is however, a finding in the Planning Commission’s Resolution No. 2022-012 approving the Project. The Planning Commission found that the Project, among other findings, was in conformance with Coastal Act Policy No. 5, because the “...Program parking space will provide a low cost temporary housing opportunity for Program participants for a limited period of time while participants in the Program seek permanent housing solutions. Therefore, the Project would encourage and provide housing opportunities for persons of low and moderate income.” This finding confirms why the Project conforms with Coastal Act Policy No. 5 and while the Project does encourage and provide housing opportunities to Program participants, the finding itself does not indicate that the City is intending to provide “low-cost housing” through the Program. While it is true that the Program will provide housing opportunities for participants because they will be working with PRC to find long-term housing and be provided a temporary place to park their OSV, the existing use of the public ROW allows for vehicle parking; therefore, the proposed use is a negligible expansion of the existing use.

Second, with regard to the Class 4 exemption, Appellant contends that allowing long-term parking of RVs (or temporary housing) will result in “potential air quality, noise and public services impacts.” The Appellant does not provide any evidence beyond these broad statements to support its contention that there will be impacts to air quality, noise and public services. Appellant also does not appear to consider that the parking sites for the Program are currently used for vehicle parking, including OSV parking. While the Program will make alterations in the condition of land, given that the Program is temporary and the alterations to the land are minor (reserving 30’ by 10’ of existing public ROW, placement of post for signs and markings in ROW), the Class 4 exemption

is appropriate as there will be a negligible temporary change of land use will have no permanent effects on the environment.

Third, with regard to the Common Sense exemption, Appellant argues that because the Program will result in “potential air quality, noise and public services impacts given the likely use of generators and lack of utility connections for each designated location” the Program is not subject to the Common Sense exemption. Again, Appellant does not provide any evidence beyond these broad statements to support its contention that there will be impacts to air quality, noise and public service nor does the Appellant provide any evidence to support the contention that generators are more likely to be used by Program participants rather than other non-participant OSV operators. This exemption provides that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this case, since the parking areas in the right-of-way are being used for the purpose they are originally intended, the Program and Ordinance are not a project that may cause a direct, or reasonably foreseeable indirect, physical change in the environment and are exempt under the Common Sense exemption (14 Cal. Code Regs. § 15061(b)(3)). The Program would essentially reserve 13 parking spaces for a temporary period of three years to allow Program participants to park at one of the Program sites for periods of up to 29 days while in the Program. There would also be minor improvements to the Program parking spaces (placement of post for signs and markings in ROW). The Program would also provide other benefits to the Program participants such as trash and recycling collection and black water collection, however, these are services that OSV owners would require regardless of participation in the Program and OSV parking would be available regardless of the Program status. This negligible temporary change of land use will have no permanent effects on the environment.

Fourth, none of the exceptions applicable to the Class 1 and 4 exemption in Section 15300.2 of the CEQA Guidelines apply, as described below.

- Sec. 15300.2(a): This exception does not apply to the Class 1 exemption. Furthermore, there is no evidence in the record that the Project would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies.
- Sec. 15300.2(b): There is no evidence in the record that cumulative projects of the same type would occur within the same place to create a significant cumulative impact.
- Sec. 15300.2(c): There is no evidence that the activity would have a significant effect on the environment due to unusual circumstances.
- Sec. 15300.2(d) through (f): The Project is not proposed near an officially designated scenic highway, does not involve a current or former hazardous waste site, and, does not affect any historical resources. Therefore, the provisions of subsections (d) through (f) are not applicable to this Project.

Finally, Appellant contends that City was required to file a Notice of Exemption (“NOE”). This is not correct. Pursuant to Public Resources Code Section 21152(b), when an agency determines that a project is exempt, it may file a notice of exemption but is not required to make any such filing. (See also Cal. Code of Regs. § 15062(a)).

For the reasons provided above, the City Council rejects this basis of appeal.

Basis 6. “The City has the authority to and should select an alternative location to Francisco Boulevard.”

Response: As indicated above in staff’s Response to Basis Nos. 3, 4, and 5 the consideration of the Council on this Appeal is limited to the approval, denial or modification of the CDP issued by the Planning Commission. Since an alternative location is not relevant to the issuance of a CDP, staff believes that this appeal Basis No. 6 should not be considered by the Council. However, if Council is inclined to consider this issue, staff provides the following information to refute this contention.

The Program sites were approved as part of the Settlement Agreement in November 2021. The Program, including the design and operation of the Program, was considered and approved by the Pacifica City Council on February 22, 2022. As detailed in the May 16 Planning Commission staff report, the establishment of the parking space and implementation of the improvements in the Coastal Zone meet the definition of “development” per PMC Section 9-4.4302(z). Development in the Coastal Zone requires issuance of a Coastal Development Permit per PMC Section 9-4.4303(a). The Planning Commission’s action on May 16, 2022, was focused on determining whether the Project is appropriate or not, with respect to the findings required for approval of the Coastal Development Permit. The Planning Commission was not provided the authority from City Council to review or consider alternative locations for the Project. Therefore, because review and consideration of alternative locations for the Project was not within the Planning Commission’s purview, it is also beyond the purview of the City Council as part of the appeal.

For the reasons provided above, the City Council rejects this basis of appeal.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby make the finding that Project is an implementation of the Program. The City Council further finds, based on its independent judgment and after consideration of the whole administrative record, that (1) the Program and Project were previously assessed on February 28, 2022 in Resolution No. 12-2022, and therein determined exempt from CEQA pursuant to the Existing Facilities, Minor Alterations to Land, and “Common Sense” exemptions, (14 Cal. Code Regs. §§ 15301, 15304(e), 15061(b)(3)); and (2) there has been no change to the Program or Project or substantial changes in circumstances or new information that would warrant subsequent or supplemental environmental analysis or review of the Program or Project in accordance with CEQA.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does make the following findings pertaining to Coastal Development Permit CDP-437-22 as required by PMC section 9-4.4304(k):

1) The proposed development is in conformity with the City’s certified Local Coastal Program.

Discussion: The City’s certified Local Coastal Program (LCP) includes the 1980 Local Coastal Land Use Plan (LCLUP) that contains policies to further the City’s coastal planning activities. Applicable policies and references in the City’s LCLUP are discussed further below:

Coastal Act Policy No. 2: 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 rock coastal beaches to the first line of terrestrial vegetation.

Finding: The Program would reserve a small number of on-street parking spaces. Public access to the sea would be maintained between the Program parking space and the shoreline through the use of the existing sidewalk along the west side of Francisco Boulevard which connect to various public access points to the sea. The Code of Conduct associated with the Program would require Program participants to keep all personal property within the participants' vehicles and would prohibit Program participants from blocking any access to the sidewalk. Additionally, the signage proposed at the site will be located within the public ROW, but outside of the street and path of travel on the sidewalk, similar to other existing traffic and parking signage along Francisco Boulevard. Therefore, the use of the Program parking space and the signage will not obstruct or degrade physical access along Francisco Boulevard and will not impact on the public's right of access to the sea.

The Program parking space is located approximately 0.25-miles from the Clarendon Road coastal access point (Coastal Access Point No. 9 in LCLUP). In 2019, the City hired consultants to help prepare the Sharp Park Specific Plan. As a part of this effort the consultants prepared an Existing Conditions Report, which included a parking analysis for the West Sharp Park neighborhood. While the block along Francisco Boulevard that would contain the Program parking space is not specifically included in the parking survey, surrounding block segments were included. The survey found that parking along the block along Francisco Boulevard immediately to the north and Clarendon Road immediately to the south of the Project were 0 to 25 percent utilized during weekday midday and weekday evenings. During the weekend midday, the block along Francisco Boulevard immediate to the north was 0 to 25 percent utilized and the block along Clarendon Road immediately to the west was 50 to 75 percent utilized. The Program would remove 30 linear feet of existing public parking along Francisco Boulevard, which is approximately 1.5 parking spaces for a standard vehicle. The beach parking lot along Beach Boulevard as well as the various streets west of the Program parking space provides significant free parking options to coastal visitors. Due to the distance of the Program parking space from the nearby coastal access point, the general availability of parking in the vicinity, and the various other available parking options closer to the nearby coastal access point, the reserved public ROW will not adversely affect coastal visitor parking and will not impact the public's right of access to the sea.

Coastal Act Policy No. 5: Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. [...]

Finding: The Program parking space will provide a low cost temporary housing opportunity for Program participants for a limited period of time while participants in the Program seek permanent housing solutions. Therefore, the Project would encourage and provide housing opportunities for persons of low and moderate income.

Additionally, the City's certified Local Coastal Program includes an Implementation Plan (IP) to implement the policies contained in the LCLUP. The IP generally consists of the City's zoning provisions and other PMC provisions relating to the regulation of development and coastal resources protection. As noted above, the Project site is not located within an underlying zoning district. However, it is located within the C-Z combining district and is subject to the supplementary standards contained in PMC Title 9, Chapter 4, Article 44 applicable to development in the Coastal Zone. Because of the nature of the activity involved with parking of Program

vehicles in designated spaces on the existing Francisco Boulevard public ROW, the Program would not conflict with the habitat preservation, geotechnical suitability, grading and drainage, shoreline protection, public shoreline access, coastal view corridors, growth management procedures, or neighborhood commercial district supplementary regulations. Therefore, the Project would be in conformity with the City’s IP component of the certified LCP

For all the reasons provided above, the Project is in conformity with the City’s certified Local Coastal Program.

2) *Where the Coastal Development Permit is issued for any development between the nearest public road and the shoreline, the development is in conformity with the public recreation policies of Chapter 3 of the California Coastal Act.*

Discussion: The Project site is not located between the nearest public road and the shoreline; therefore, this finding does not apply in this case.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pacifica does hereby approve Coastal Development Permit CDP-437-22 to establish one on-street Temporary Safe Parking Program (“Program”) parking space (30’ by 10’) and improvements on the west side of the Francisco Boulevard public ROW, east of 2400 Francisco Boulevard (APN 016-322-230) and approximately 32 feet north of the Clarendon Road and Francisco Boulevard intersection, subject to conditions of approval included in Exhibit A to this Resolution.

* * * * *

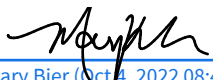
Passed and adopted at a regular meeting of the City Council of the City of Pacifica, California, held on the 26th day of September 2022.

AYES, Councilmembers: Beckmeyer, Bigstyck, O’Neill, Vaterlaus.

NOES, Councilmembers: Bier.


ABSENT, Councilmembers: n/a.

ABSTAIN, Councilmembers: n/a.



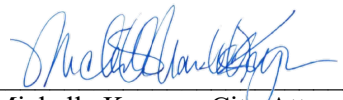
Mary Bier (Oct 4, 2022 08:48 PDT)
Mary Bier, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

Exhibit A

Conditions of Approval: File No. 2022-012 – Coastal Development Permit CDP-437-22, to establish one on-street Temporary Safe Parking Program parking space and improvements on the west side of the Francisco Boulevard public right-of-way (ROW), east of 2400 Francisco Boulevard (APN 016-322-230) and approximately 32 feet north of the Clarendon Road and Francisco Boulevard intersection.

City Council Meeting of September 26, 2022

Planning Division of the Planning Department

1. Development shall be substantially in accord with the plans entitled “OSV Permit Parking Spot Implementation – Francisco Blvd.” included as Attachment B of the May 16, 2022 Planning Commission staff report and Attachment E of the August 8, 2022 City Council staff report, except as modified by the following conditions.
2. The term of this approval shall be limited to the period of effectiveness of the Temporary Safe Parking Program approved by the City of Pacifica City Council in Resolution No. 12-2022. This approval shall have no further force or effect upon termination of the Temporary Safe Parking Program unless expressly authorized in another action by the City Council.
3. The City of Pacifica shall remove associated signage and pavement markings upon termination of the Temporary Safe Parking Program unless expressly authorized in another action by the City Council.
4. All vehicles and occupants of the spaces authorized in this approval shall comply with the terms, conditions, and other requirements of the Temporary Safe Parking Program, including but not limited to the Code of Conduct.

Conditions added by Planning Commission at May 16, 2022 Planning Commission Hearing

5. After not less than two months and not more than four months of operations, the Applicant shall prepare a written Operational Review Report summarizing operation of the Program space in relation to the adjacent North Coast County Water District (NCCWD) facility for review and consideration by the City Manager. The Applicant shall confer with the NCCWD to seek its input into the Report.
6. The Program space shall have a no parking buffer zone at the rear of the Program space (10' X 30') not less than 5' in depth and the full width of the program space (10'), with the exact depth at the discretion of the City Engineer.
7. All Program participants shall comply with all BAAQMD regulations applicable to generators proposed for operation at the Program spaces.

END

OSV Permit Parking Spot Implementation - Francisco Blvd.

Summary

This is to get City road spots agreed upon by City Council ready for OSV parking. The elements are signage and pavement markings.

1. **Sign & Poles** – 2 signs (generally) denoting where the OSV spots are will be placed at each location, except otherwise said. One where the spot(s) begin and end.
2. **Pavement marking** – traffic paint will used to denote the pavement begin, end and width of the OSV spot(s). Where multiple spots exist in one area, there will not be denotation of each individual spot but just beginning and end and width limit.

Signs & Poles

Signs will be placed adjacent the OSV space(s). Poles to be 2" galvanized steel pipe, hardware to be tamper proof. New pole installation will be account of any possible ADA issues and place poles behind sidewalk when ROW exists.

Sample sign shown below. Pole and sign installation, per site plan layouts attached.



Pavement Marking

A 4" white pavement marking will be used to outline the three non-curb sides of the designated OSV space, as shown in the site layouts in yellow.

Francisco Blvd.

- 2 sign and pole installation needed. One near stop sign, one near north boundary of OSV location.
- 4" white stripe- offset from edge of pavement 10' and front and back of zone. Will be field marked. Approx. 30' in length.



OSV Permit Parking Spot Implementation - Francisco Blvd.

Summary

This is to get City road spots agreed upon by City Council ready for OSV parking. The elements are signage and pavement markings.

1. **Sign & Poles** – 2 signs (generally) denoting where the OSV spots are will be placed at each location, except otherwise said. One where the spot(s) begin and end.
2. **Pavement marking** – traffic paint will used to denote the pavement begin, end and width of the OSV spot(s). Where multiple spots exist in one area, there will not be denotation of each individual spot but just beginning and end and width limit.

Signs & Poles

Signs will be placed adjacent the OSV space(s). Poles to be 2" galvanized steel pipe, hardware to be tamper proof. New pole installation will be account of any possible ADA issues and place poles behind sidewalk when ROW exists.

Sample sign shown below. Pole and sign installation, per site plan layouts attached.

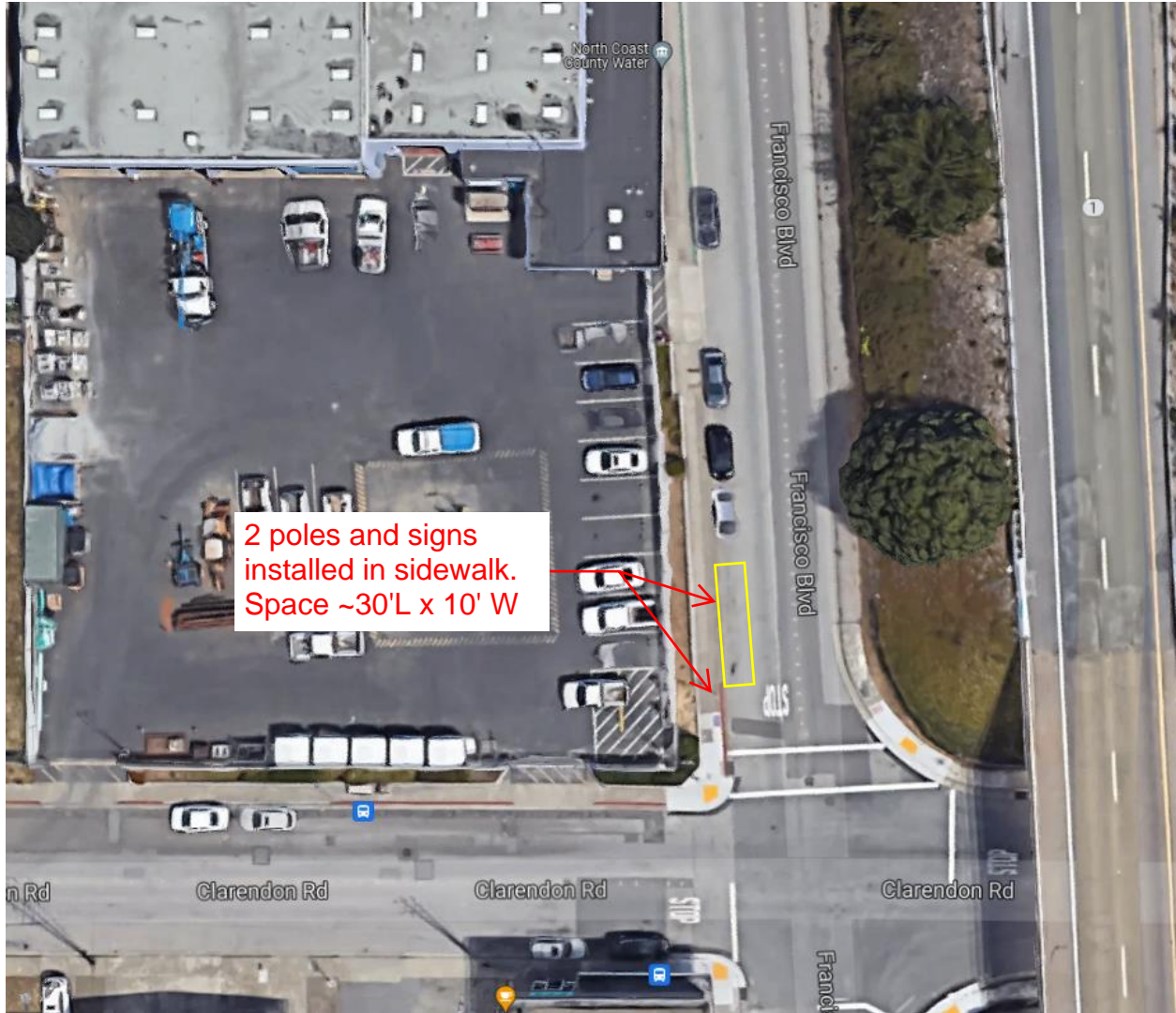


Pavement Marking

A 4" white pavement marking will be used to outline the three non-curb sides of the designated OSV space, as shown in the site layouts in yellow.

Francisco Blvd.

- 2 sign and pole installation needed. One near stop sign, one near north boundary of OSV location.
- 4" white stripe- offset from edge of pavement 10' and front and back of zone. Will be field marked. Approx. 30' in length.












For Signature: ResolutionNo65-2022_SafeParkingFranciscoBlvdAppeal

Final Audit Report

2022-10-04

Created:	2022-10-03
By:	Sarah Coffey (scoffey@pacifica.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA9ENXRkst8vuprpHdVnbv-S-BX6xTXRyB

"For Signature: ResolutionNo65-2022_SafeParkingFranciscoBlvdAppeal" History

-  Document created by Sarah Coffey (scoffey@pacifica.gov)
2022-10-03 - 4:56:27 PM GMT
-  Document emailed to mbier@pacifica.gov for signature
2022-10-03 - 4:57:32 PM GMT
-  Email viewed by mbier@pacifica.gov
2022-10-04 - 3:47:16 PM GMT
-  Signer mbier@pacifica.gov entered name at signing as Mary Bier
2022-10-04 - 3:48:04 PM GMT
-  Document e-signed by Mary Bier (mbier@pacifica.gov)
Signature Date: 2022-10-04 - 3:48:06 PM GMT - Time Source: server
-  Document emailed to Sarah Coffey (scoffey@pacifica.gov) for signature
2022-10-04 - 3:48:08 PM GMT
-  Email viewed by Sarah Coffey (scoffey@pacifica.gov)
2022-10-04 - 3:57:32 PM GMT
-  Document e-signed by Sarah Coffey (scoffey@pacifica.gov)
Signature Date: 2022-10-04 - 3:57:37 PM GMT - Time Source: server
-  Agreement completed.
2022-10-04 - 3:57:37 PM GMT