

**MINUTES**

**CITY OF PACIFICA  
PLANNING COMMISSION  
COUNCIL CHAMBERS  
2212 BEACH BOULEVARD**

November 6, 2023

7:00 p.m.

Chair Hauser called the meeting to order at 7:01 p.m.

**ROLL CALL:** Present: Commissioners Devine, Berman, Leal, Godwin,  
Ferguson, Wright and Chair Hauser  
Absent: Commissioners Leal and Ferguson

**SALUTE TO FLAG:** Led by Commissioner Godwin

**STAFF PRESENT:** Planning Director Murdock  
Asst. City Attorney Murphy  
Sr. Planner Harkousha  
Asst. Planner Snodgrass

**APPROVAL OF ORDER  
OF AGENDA** Commissioner Berman moved approval of the Order  
of Agenda; Commissioner Wright seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Devine, Berman, Godwin, Wright and  
Chair Hauser  
Noes: None

**APPROVAL OF  
MINUTES:** None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF NOVEMBER 13,  
2023:**

Chair Hauser stated that she didn't see any need for a liaison to the City Council meeting, and asked confirmation from Planning Director Murdock.

Planning Director Murdock suggested that, due to possible need to cancel the next Planning Commission meeting of November 20, if the Planning Commission makes a recommendation to City Council at this meeting, there may be a need to appoint a liaison for the November 27 City Council meeting where the emergency shelter ordinance would be heard in that eventuality.

Chair Hauser understood and asked if anyone would like to volunteer to be a liaison for November 27.

Commissioner Wright stated that, in the absence of any other volunteer, he will do it.

Chair Hauser appreciated that.

Planning Director Murdock stated that they will revisit that in the event that they have the next Planning Commission meeting.

**ORAL COMMUNICATIONS:**

None.

**CONSENT ITEMS:**

None

Chair Hauser stated that she forgot to take public comments on administrative business and asked if they need to do that now.

Asst. City Attorney Murphy stated that they can just confirm that there are no public comments.

Chair Hauser confirmed there were no comments.

**PUBLIC HEARINGS:**

**TA-124-23**

**File No. 2023-013 – Text Amendment TA-124-23**, initiated by the City of Pacifica, to add a new Article 53, “Emergency Shelters” to the City of Pacifica Zoning Regulations (Chapter 4 of Title 9 of the Pacifica Municipal Code “PMC”) to create zoning provisions for approval, construction and operation of an emergency shelter consistent with the requirements of State law, to amend Article 11, “C-2 Community Commercial District” to make an emergency shelter with 20 or fewer occupants, a permitted use and an emergency shelter with 21-30 occupants a conditional use, to update sections of the City of Pacifica’s Zoning Regulations to include updated definitions for “Community Care Facility” and “Family Daycare Home” to be consistent with the requirements and definitions of State law, and make other minor conforming revisions. Recommended CEQA Action: Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15269 (Emergency Projects) of the CEQA Guidelines as the adoption of Article 53 “Emergency Shelters” and amendments to Article 11 “C-2 Community Commercial District” are necessary to prevent or mitigate an emergency, and Section 15061(b)(3) (General Rule Exemption) because the amendments to various sections and articles of Chapter 4, “Zoning” of Title 9, “Planning and Zoning”, including changes to definitions.

Sr. Planner Harkousha presented the staff report.

Commissioner Wright suggested they wait until after public comments.

Chair Hauser agreed and then opened public comments, and asked Asst. City Attorney Murphy to remind them of the warning.

Asst. City Attorney Murphy explained the required adherence to the boundaries.

Chris Redfield, Pacifica, acknowledged that this item was regarding zoning changes to comply with state law, gave details of similar projects in San Mateo County that got state funding to help with expenses and asked if funding in Pacifica will be available down the road.

Asst. Planner Snodgrass introduced call-in speakers.

Dan Stegink, Pacifica, referred to page 6 of the agenda, and shared his thoughts and concerns on proposed locations of emergency/homeless shelters.

Sue Digre, Pacifica, referred to age limit for emergency shelters, and she expressed her concerns as to whether the law will cover special needs individuals or family in need with younger children.

Chair Hauser closed public comments. She asked for staff input on questions asked by commenters, such as financial implications and potential grant funding and loss of TOT to the city which is important.

Sr. Planner Harkousha stated that the proposal was for designating a particular zoning district to allow the emergency shelters and there are no proposals for specific development and will be proposed at a later time by state facility or a private facility. For funding, that would be dependent on type of shelter or when it occurs.

Planning Director Murdock referred to her comment, adding that there is no plan for a specific shelter to be constructed at this time and wasn't aware of any legal mandate for local government agencies to undertake the construction or operation of these facilities. They are just setting the stage to comply with state law to set the land use conditions so where the funding, willing property owner/operator have been identified, such a shelter can be constructed and operated. Regarding the TOT loss, he stated that could occur if one of the motel operators decided to discontinue their business operation and sell their property or convert the operation to an emergency shelter. He thought the scenario described is unique in the sense that, if the county acquired a piece of property, they wouldn't be subject to Pacifica's land use regulations and he didn't think it is something they can safeguard against or need to worry about in this context. He stated that, thinking through what is the most appropriate zoning district to fulfill our obligation under state law is the question before the Commission at this meeting.

Chair Hauser stated she had some questions on that, but she reserve that for later. She referred to the question of special needs groups, and that is what, throughout the housing element process, Commission and Council have wanted to make sure they are being inclusive. She asked if there is a way to be sure they are being thoughtful on how they do this.

Sr. Planner Harkousha stated that they aren't aware of any age limits for emergency shelter specifically, but for community care facilities, there are specific types of facilities that are for community care and there might be an age definition associated with that, such as foster care or domestic violence or a variety of types of housing for community care. She reiterated that they are not aware that there is an age limit for emergency shelters.

Asst. City Attorney Murphy added that the ordinance does incorporate all the steps of state definitions for all of these uses, such as emergency shelters, community care, family day care, that are consistent with the state law requirements.

Chair Hauser stated that, if this does move forward to Council, maybe that data could be available to councilmembers to make an educated decision if this comes up again as she thought it was a good question.

Commissioner Godwin asked if they considered groups like the Federal Emergency Management Agency, Red Cross or other non-profits as sponsors, once we establish this, to come in and set up a shelter.

Sr. Planner Harkousha stated that they have not considered any assistance from non-profits, FEMA, Red Cross, as the proposal at this time is for the designation of the zoning district and they haven't reviewed any site by site specific development of emergency shelters but that may be in consideration of some non-profit, FEMA or Red Cross proposes emergency shelters on a specific site.

Commissioner Godwin thought he would phrase it differently, i.e., once the change is made in the ordinances, will such groups be able to come in and set up an emergency shelter with minimal additional oversight on one or more of the shelter parcels.

Asst. City Attorney Murphy stated that any non-profits or other groups could come in and construct an emergency shelter which would be a permanent facility and there are provisions in state and federal law regarding emergency housing. She stated that, if there is an earthquake or flood and housing would be required, FEMA might come in and would be subject to federal regulations. The intent of this ordinance is not to address emergency housing but the emergency shelter construction and typically that wouldn't be FEMA but an operator having experience operating emergency shelters.

Commissioner Godwin asked, when the U.N. solves this problem and the military goes someplace, they bring in a set of tents and generators for power and water trucks, etc., whether that type of operation would not be enabled by this or would it be included, or could some organization say they are there with containers, etc., and will be setting up and they have a tent city. He asked if that would be allowed, prohibited or discussed later.

Asst. City Attorney Murphy stated that would not be the intent of this ordinance to provide for that type of immediately needed emergency housing. The housing constructed under this ordinance would still need to comply with the city's building code requirements that are in effect.

Commissioner Godwin asked if they considered under-utilized school sites, closed schools and church facilities that could be viable temporary housing shelters or a somewhat more permanent

thing and partnering with a non-profit or a school district to provide some or all of these kind of services.

Sr. Planner Harkousha stated that staff did consider all zoning districts when citing emergency shelters, and when reviewing the zoning districts that applied for current and former public schools, they were not uniform or consistent up the route and some schools had zoning districts that were single family or some were even agricultural and there wasn't a uniform zoning approach from a zoning standpoint. She stated that these properties were also spread across the city with some deep inside primarily residential areas which were farther away from the source of services that are important to consider when citing for emergency shelters such as different amenities and services that could provide to the individuals utilizing that shelter.

Commissioner Devine would like a better understanding of the sites on the maps and is this a blanket designation of all C-2 zoning sites. She is trying to understand why so many of the sites are privately owned functioning businesses and what the intention is as some of these sites are on the housing element map as well and she questioned how it is practical.

Sr. Planner Harkousha began with the question of the housing element sites, stating that there are about 12 particular sites listed in the Attachment C that are housing element sites and they will be part of the rezoning program and they will eventually not be zoned in the community commercial zoning district and were excluded from the actual analysis when considering the sites. She referred to map 1, stating that there are specific sites listed, and the sites highlighted in red were the ones they were reviewing as site suitability.

Commissioner Devine asked if it was bright red versus the burgundy.

Sr. Planner Harkousha stated that was a program issue they had with the colors and all the red is supposed to be the same type of red but they are all C-2 zoning districts. They had an issue with the coloring of some of the sites, but sites in burgundy and red are all C-2 zoning district sites and are all sites being considered for the emergency shelter designation.

Commissioner Devine asked if Sites 8, 9 and 10 are also in the housing element list.

Sr. Planner Harkousha thought those sites were listed, and after doing the sites inventory, they were listed as back up sites for the housing element and she didn't believe they were considered the core site, and they excluded just the core sites from the list.

Commissioner Devine stated it was confusing in terms of trying to think about this practically. She stated that they are looking at sites 11 and 12, which is a fully functioning shopping center and it was difficult to envision that changing into anything like this. She is trying to be logical about this, and asked what the intension is.

Planning Director Murdock stated that they have a duty to find a zoning district in town where they will allow emergency shelters as a permitted use and the sites need to allow residential use so they are not put in industrial areas that aren't suitable for people to reside and need to be close to services, transit, etc. He stated many of the C-2 zoned properties in Pacifica meet those criteria and they also tend not to be so small where it would be intimately situated in most cases with surrounding residences and, on balance, they felt the C-2 district checked most of the boxes with the fewest drawbacks. He stated that setting the conditions where, if a property owner and

operator want to partner together to open an emergency shelter, the conditions exist to allow that to happen but not compelling any property owner to convert their property to an emergency shelter. He stated that, where there is a thriving business, there will continue to be a thriving business but where there is a vacant lot and someone wants to sell it to an emergency shelter operator, that condition would exist to enable that to happen, thus, it is not forcing anyone to convert their property to an emergency shelter use.

Commissioner Devine stated it would drastically affect the businesses in these areas if one lot or parcel surrounded by a shopping center were to convert.

Planning Director Murdock thought that was possible, but they have an obligation under state law to cite these and treat them like any other residential use and, to the extent she is concerned about those impacts, he questioned where they would put them in a zoning district that also allows residential use. He stated that they could put them in C-1 which tends to be even more intimately situated, or multiple- or single-family residential zoning districts, all with different sets of potential consequences and different relationships to the critical services and transit, etc. He didn't suggest it's an easy planning choice for the Commission, but having to pick some place, C-2 seems to be the best zoning district available for this purpose.

Chair Hauser had a question relative to what Commissioner Devine was saying, i.e., as far as the housing element sites being on this list, her understanding is whether they are core sites or supplemental sites, they are all getting rezoned with our housing element effort, and even if they are appropriate for housing for emergency shelters now, when they probably rezone them to a housing or mixed use designation, she assumes that will take the emergency shelter designation out, and her question is whether that is her correct understanding and does that leave them enough land in this designation to meet the requirements.

Planning Director Murdock stated that playing it out through adoption and completion of the Phase 1 rezoning, they may need to revisit this emergency shelter zoning district or evaluate their analysis again to see if sufficient C-2 zoning districts remain. He stated that they don't know as it is the point in time where they need to undertake this emergency shelter ordinance adoption and, if and when they may fall out of compliance because of subsequent zoning actions, they will need to bring themselves back into compliance and that is an unknown at this time.

Commissioner Berman stated that she had a few overarching questions, but she will address the ones more closely related to Commissioner Devine's and Chair Hauser's questions and concerns. She asked if HCD is requiring that they specifically identify sites or can they update the zoning language.

Planning Director Murdock stated that they don't need to identify specific sites where an emergency shelter will be constructed per se, but do need to perform an analysis that demonstrates the sites that are so zoned are adequate across a number of criteria which Sr. Planner Harkousha can elaborate upon. They don't have to fix specific sites but they do need to get to the site level to perform the analysis that is required to show the viability to accomplish the intent of state law.

Commissioner Berman stated, from the HCD perspective, if they amend the C-2 zoning language to allow for emergency shelters, the HCD reviewers could look at all the C-2 zoning in the city and back calculate to confirm that. She thought this will show less commitment to specifically

choosing sites but, if they don't have to choose sites, she asked if this is sufficient enough to just update the zoning language and give that to HCD.

Planning Director Murdock thought that was largely what this ordinance proposes, i.e., update the C-2 zoning district to allow emergency shelters, create a new article in the zoning standards that has particular criteria and standards for emergency shelters themselves. He thought on the question of what HCD is looking at, Sr. Planner Harkousha has performed a very detailed analysis and is quite conservative. It does not include all of the potential parcels that this zoning amendment would apply to, and she analyzed a subset of those that are most likely and have the best chance to operate as an emergency shelter and demonstrate that we complied with the minimum quantitative criteria in terms of land area viability, suitability, etc., but there are more sites that actually qualify for the conditions they write.

Commissioner Berman stated that, as they are all in mindset of the housing element, it is scary to see specific sites identified and they are viewing as whether the site was developed with an emergency shelter. She stated that is worthwhile considering as it is possible for anything under the C-2 zoning to be constructed as an emergency shelter. She concluded that they were specifically prescribing these sites.

Planning Director Murdock agreed, adding that it was a point he hadn't anticipated. He stated that these are not sites in the same sense as the housing element site as those sites were identified to align with the analysis performed to globally demonstrate compliance with the site criteria but are not sites per se for emergency shelters at the exclusion of other land uses.

Commissioner Berman asked if they are able to amend language to multiple zoning districts.

Planning Director Murdock stated it was possible, and that would expand the range of sites to even more potential emergency shelter sites. He stated that they demonstrated that they met or exceeded all of the state's criteria and there is no minimum policy or legal reason to do that at this time, but it is something they can try to provide their best analysis and advice if the Commission is interested in doing that.

Commissioner Berman stated that she now sees things clearly after his clarification and that was just one of her questions. She stated that his answer to her first question changes her other question. She knows there are some sites identified in the coastal zone but she is going to just look at C-2 zoning. She asked if the Coastal Commission will need to approve our zoning amendment in the coastal zone prior to HCD accepting their zoning amendment.

Planning Director Murdock stated he didn't have a specific answer to that point, but generally, in their cooperation with HCD in the course of working on the housing element, a number of land use matters, including General Plan updates, rezonings, etc., all need to run through the Coastal Commission for certification before they take effect. He stated that HCD is aware of that and their position is that, as long as the city has done everything within its power, they aren't going to come after the city punitively and if the city fails to diligently process the local coastal program amendment with the Coastal Commission, that is a different situation and he is not suggesting the city is going to do that. He stated that, as long as they are doing everything in the city's power to advance that towards the ultimate certification, he feels confident that the HCD staff will be on the right side of the law.

Commissioner Berman stated that was what she was getting at as she would hate for this to put the city in purgatory for the housing element because of bureaucracy and process.

Planning Director Murdock stated that, if that is the specific question, he feels they will fulfill their obligation to have this ordinance adopted to obtain housing element certification, even if it occurs prior to Coastal Commission certification of the ordinance.

Commissioner Berman understood, adding that she wasn't sure if they needed to find a zoning district that all zones are outside the coastal zone.

Planning Director Murdock stated that he has no reason to believe that is a factor at this time.

Commissioner Berman knows we have parking requirements assigned to the C-2 zoning and she thought bike parking requirements would be beneficial for these emergency shelters as it is possible that someone utilizing the emergency shelter doesn't have a car but a bike that they will want to lock up. She wasn't sure if the C-2 zoning already has a requirement for bike parking, but she would like to see that along-side this.

Planning Director Murdock thought Sr. Planner Harkousha can speak briefly on the types of automobile parking requirements then can impose and he can address the bicycle parking component.

Sr. Planner Harkousha stated that HCD provides provisions of the objective standards they can impose on the emergency shelters, specifically that we need to allow specific standards similar to the zoning district that we're proposing for development of emergency shelters. She stated, with her understanding of the parking ordinance, the minimum requirement within a C-2 zoning district is one parking space per employee or visitors, consistent with the standards HCD recommends for emergency shelters. She wasn't familiar with the requirements from HCD as they don't state bike parking specifically in the objective standards but they could evaluate but it will take additional analysis of why they are proposing bike parking to provide to HCD.

Commissioner Berman asked, for clarification, does Pacifica's municipal code for the C-2 zoning district have bike parking requirements.

Planning Director Murdock stated that it does, i.e., conventional bicycle parking requirement is 10% of required spaces or two, whichever is greater. He stated that they will flush that out after this meeting to confirm with HCD whether they can continue to apply that objective universally applicable parking standard. He didn't think it was particularly burdensome in a way that would cause an emergency shelter not to be able to operate. It is a relatively small area and are only going to be required to have one or two, maybe three, parking spaces and a single bike rack will comply with the bicycle parking requirement and won't be a burden on an emergency shelter. He added that, in the performance standards, there is a personal property storage requirement for emergency shelters, and that may be another way for someone to store a bicycle in the event they aren't allowed to impose a specific exterior bicycle parking requirement.

Commissioner Berman saw that and appreciated the thought associated with that, but she didn't know if a personal storage area would be large enough to fit a bicycle as it could be larger vertically rather than horizontally. She would appreciate them looking into the bike parking as she thought it would be beneficial for users of the shelters.



Commissioner Wright asked if they ran this idea by the consultants for our housing element prior to putting this staff report together.

Planning Director Murdock stated that work on the emergency shelter ordinance was not initially in the scope of our consultants' work in terms of timeline or budget for the housing element update. The requirements to prepare this ordinance arose from HCD's first comment letter on our draft housing element and, in the interest of time and budget, city staff did the work to prepare the emergency shelter ordinance. They have continued to work in concert with the housing element consultants very closely with multiple meetings per week for most weeks, and they are aware of this ongoing effort but did not specifically engage in the policy draft.

Commissioner Wright was sure there were a number of considerations, many of which they heard, i.e., state law telling us what we have to do and he assumed there was some equity and distribution issues they had to consider, and he asked them to enlighten them on all the plans they made to come to the decision to try to give them the best possible product, taking into consideration all the different backers, people, neighborhoods.

Planning Director Murdock stated he can, adding that Sr. Planner Harkousha can expand or start.

Sr. Planner Harkousha stated she can start. Considering all the zoning districts when citing for emergency shelters, they started by considering sites based on the criteria HCD deemed as suitable for specific sites to accommodate emergency shelters and then unveiled the types of zoning districts that may be applicable. On looking at all the zoning districts, they wanted to ensure that there were areas that had amenities and services that could support an individual utilizing an emergency shelter and at the same time land area wise, they didn't want to expand too far if they picked one that would be a lot more land area than they would need to fulfill HCD's requirement to accommodate emergency shelters. She stated that was the process, with getting through all the criteria and then they decided on the C-2 zoning district.

Planning Director Murdock added that, on thinking about zoning districts that allow residential uses, you have purely residential zoning districts and mixed use zoning districts, and they weren't prepared in their initial recommendation to propose purely residential zoning districts for this purpose, as a planning assumption limited them to the C-1 and C-2 zoning districts for all intents and purposes. The C-1 and C-2 zoning districts both allow mixed use commercial and residential and they met the minimum criteria of residential zoning district and then, comparing C-1 to C-2, relatively fewer parcel zones in C-2 than C-1, but typically larger parcels that might be able to incorporate an emergency shelter without predominating the land use on the site, and some of our key corridors, like Sharp Park and Palmetto and Francisco corridors, are significant portions of C-1 zone land area which they felt would not serve the community's best interest if several of those were to convert to emergency shelter purposes so balancing all the factors, the C-2 came out based on whichever method of analysis they used to get to the end state.

Commissioner Wright stated it was safe to assume they used the best intent to deal with the mandate we had to give our community the best possible outcome which is what staff's recommendation represents.

Planning Director Murdock personally agreed.

Chair Hauser appreciated all the questions as she thought they had some good ones. She thought they had to do this as part of the housing element, and she asked staff's opinion of what the optimal timing was to have this completed.

Planning Director Murdock stated as soon as possible so it isn't an unknown and we can focus staff efforts on the core housing element update process. He stated that this was not an anticipated workload, and they are trying to complete this work as quickly as they can but it has been difficult and taken away time that would have otherwise been committed to preparing the next draft of the housing element for adoption.

Chair Hauser asked if she was correct in understanding that this needs to be done for HCD to accept our housing element.

Planning Director Murdock stated that it needs to be completed to obtain HCD certification and they will continue to review any number of drafts that they submit but this will continue to be a comment and prevent them from obtaining certification and thus concluding our housing element update process until they adopt the emergency shelter ordinance.

Chair Hauser thought she was being overly optimistic but hopes that, on the second go around, HCD certifies the housing element, they would need it for the next resubmittal.

Planning Director Murdock agreed, and putting it in a broad timeline, March or April timeframe would be the latest he would hope that this ordinance would be concluded, but that isn't reflecting the additional time staff would continue to work on this if there was a delay in this process on the emergency shelter ordinance.

Chair Hauser thought, if understanding correctly, this needs to be done for them to respond to HCD and hope to obtain this certification.

Planning Director Murdock stated that, ideally, they would have this ordinance adopted before they submit the next draft for HCD review.

Asst. City Attorney Murphy stated she would like to add an addition that staff is planning to bring back the next housing element for adoption and with that adoption there will be a number of findings which address the fact that the city has complied with all of HCD's comments and in order to make that findings, one of the requirements would be that this ordinance is adopted so they can include in the findings at the adoption hearing that the ordinance has been adopted.

Chair Hauser stated she is personally interpreting this is that they have to solve this at this meeting in one way or another. She doesn't know much about emergency shelters. She has seen them in San Francisco but hasn't seen them in very many other places. She asked who builds the emergency shelters, the agencies or private entities as a financial incentive, non-profits.

Planning Director Murdock stated that his working understanding is that primarily they are operated by non-profits but much like affordable housing construction, they will often takes significant amounts of government funding assistance to construct and operate, and like affordable housing, they are difficult to construct and fewer than the needs that exist typically are constructed and operated. He didn't think there was a scenario where this ordinance is adopted

and a deluge of emergency shelters begin to pop up in Pacifica, as it isn't the reality of the economics and the operations of these types of uses.

Chair Hauser concluded that there is a financial incentive for people to do this and is not agency based, and they have to expect that someone will come in and do this. She asked if the emergency shelter beds count toward our RHNA in any shape or form.

Asst. City Attorney Murphy wasn't certain whether they do or not, but she will see if she can find an answer during the meeting. She thinks they may not, but it is helpful to create additional emergency shelter housing and other housing in connection with the housing element, for other programs as well, not just RHNA numbers.

Planning Director Murdock added that, not only are you providing shelter for people in need, but his understanding of current law is that, in order for any city to impose more strict ordinances on homelessness or encampments, they need to demonstrate the capacity to have sufficient emergency shelters in their community and should that occur at some point and multiple shelters be constructed in Pacifica, it could allow Council the option to take more aggressive RV parking or other types of homelessness related enforcement actions in a way that it could not or would have a greater difficulty in doing it at this point in time. He thought it is a balancing act as with so many policies.

Chair Hauser stated that they all touched on this a little bit, but she wants to be sure that, between making the zone change and enacting the new zoning for the phase 1 of the housing element, they aren't cannibalizing our housing element as it is really important. If there is a footnote to the zoning that sites are contemplated on the housing element, she didn't know if they can exclude some housing element sites from it as that would feel comfortable to her, although maybe not appropriate.

Asst. City Attorney Murphy stated that the general state mandate says that you need to designate a zoning district where these are allowed as permitted uses and they understand the concern with respect to the housing element, and this may be something that they can check with HCD and, if able to do so, they can do so in the draft that moves forward to Council and, if they cannot, then they won't.

Chair Hauser asked if she can poll the commissioners to see if that is something that feels comfortable to others if HCD allows for it, and do they want to accept housing element sites that they worked towards RHNA.

Commissioner Godwin stated, given that the state has said historically, only one-sixth of the housing in the lower income areas that was in previous plans was ever constructed, he thought double counting sites and hoping to get something, either low income housing unit or emergency shelter built will probably still result in a shortage of both emergency shelters and low income housing. He hears her concerns but he doesn't think it was fair or practical to worry about it and his opinion was that they put them all in the housing element and emergency shelter ordinance.

Commissioner Berman was in favor of having more control whenever they can but she knows it's a delicate situation and probably more beneficial for them to get their housing element approved as quickly as possible, and she would lean on what staff's opinion is, especially as they have a relationship with HCD's reviewers.

Planning Director Murdock stated that, in his professional opinion, if a site is listed in the housing element as a housing site and also could allow emergency shelter construction and operation, he wasn't aware of any profit potential from construction and operation of emergency shelter and, if they think about the rational property owner in Pacifica, they would likely not go towards developing an emergency shelter if they could also build multi-family or mixed use housing and derive a significantly greater profit as compared to emergency shelters.

Chair Hauser stated she will defer to what everyone else is saying.

Commissioner Wright asked if staff could contemplate any further restrictions of this big pie that would fit with what their needs and constraints are to speak more toward the Chair's concerns.

Planning Director Murdock thought one area where there is probably some discretion for the Commission is with respect to the structure of our current zoning ordinance which he thinks is a little unusual but it is the zoning ordinance we have, i.e., for whatever reason in years past, multiple other zoning districts, such as office, professional and commercial recreation, C-R zoning districts, were amended to inherit the C-2 permissible uses and he thought it would be very reasonable and maybe help the community understand that beach areas or certain open space areas that historically have had C-R zoning would not become emergency shelters and creating carveouts in those zoning districts to say the allowable uses are those in the C-2 district except emergency shelters. He thought that was one area where there is some discretion to shrink the sites, make them look a little more sensible and probably tell a truer story of where these are likely to go. He stated that the analysis they prepared has only assumed C-2 sites and a subset of those with more conservative assumptions and they could easily exclude all the 0 in the C-R sites without running afoul of our obligations, and thus thinks that one area that the Commission could make a nice impact on this ordinance.

Chair Hauser absolutely agrees with him on that, adding that she sees a lot of unanimous nodded heads. She understood there was no discretion if they do this, but she asked if they were still required to go through CEQA, such as if the site has a wetland on it.

Planning Director Murdock stated that the law requires them to be approved without any discretionary action and they would be ministerial projects for purposes of CEQA. He said it doesn't mean that an owner will get out of obligations under other state or federal laws for resource permitting for wetlands but these projects would not be subject to CEQA at the local level.

Chair Hauser asked, as he would be the person approving these, if they would be able to ask for additional studies as a lot of them are in the coastal zone.

Planning Director Murdock stated that those in the coastal zone would continue to require coastal zoning permits as he is not aware of an exclusion from that, and didn't know if Asst. City Attorney Murphy has a thought on that. He stated that many, if not most, state laws require harmonization and can go as far as they can but not cross the threshold of saying no coastal development permit. He added that, with other sites, such as R-1 zone site where someone wants to build a single family residence, they would be subject to a building permit review and would not be able to ask for biological studies, and they should think of it in that narrow review category. He clarified that there is a provision for the Planning Director to review and approve

which is the operation plan to demonstrate the specific operational compliance criteria for the emergency shelter and he would not be specifically approving every building permit as that responsibility is delegated to the planners on the team and other departments to do their respective reviews on each of the projects.

Chair Hauser concluded that someone could build an emergency shelter if they do it in C-2 with no CEQA and no conditions of approval.

Planning Director Murdock agreed, adding that they would have to demonstrate the operational criteria compliance with their plans submitted for review.

Asst. City Attorney Murphy stated, for clarification, these would be exempt from CEQA and if there were extreme, unusual circumstances where there would be a biological condition or a clear issue, that may be something they can look at but they couldn't request studies or typical review process. She stated that, typically, exemptions under CEQA are unless there are public health or safety issues that they could be able to look at.

Chair Hauser asked what General Plan designation is C-2 under.

Planning Director Murdock stated that they vary but most often it is the commercial land use designation under the prior General Plan and a variety of commercial land use designations under the 2040 General Plan.

Chair Hauser concluded that, because C-2 allows residential, it complies with state law.

Asst. City Attorney Murphy added that she was able to look and the shelter beds would not count towards state law.

Chair Hauser referred to a question that Sr. Planner Harkousha asked that they bring, and she didn't understand it. She asked that they put up the sites that counted in the 1.85 acres, stating it is 10, 15 and 13 makeup.

Sr. Planner Harkousha stated that was correct.

Chair Hauser stated she was fully on board with the fact that they need to figure this out at this meeting and the sensitive resources component of this is very odd to her.

Commissioner Wright asked if it was possible to build into this language that it would cap at a certain or can they keep building it to where they are completely out of our zoning district.

Planning Director Murdock wasn't aware of a way to put a maximum number of emergency shelters in the ordinance, but they have maximum occupant or bed counts, which is up to 20 permitted use and 21-30 would be a conditional use and in that instance for a larger shelter type, it would be subject to CEQA as a discretionary action. He clarified his previous answer stating that is for the permitted use of up to 20 beds or occupants and may not be subject to a further environmental review. He stated that they can impose a buffer of up to 300 feet between emergency shelters but they didn't put that together because of the complications of analyzing the potential impacts for our small-sized city and compact land use pattern. He stated that there is a high potential that it could render a number of sites ineligible if they started applying buffers in a

variety of hypotheticals which would run afoul of our minimum land area obligation. It was not something staff was recommending now, but if the Commission wants to venture into that territory, they can impose a buffer of anywhere from 1-300 feet between emergency shelters which may effectively limit their number but not expressly limit them.

Chair Hauser thought maybe not understanding our building code, she state 13 and removing the asphalt and grading and find paleontological resource. She stated that there is no MMRP that they have to stop and no condition of approval that says she has to stop.

Planning Director Murdock stated, in that hypothetical of appealing paleontological resource, state law already provides the obligations for a party that encounters such a resource and typically what they are seeing in a CEQA document is restating compliance with that so that it is front and center, clear, and the analysis can conclude that they have identified a measure that would mitigate that to a less than significant level. He mentioned earlier that, such as with wetlands or endangered species, the obligations to comply with state and federal law don't go away, but there is not a formal process in the first instance at the local level to highlight the obligation to comply.

Chair Hauser thought, if that is the case, they need to somehow restate that in the zoning code to refer back to those state laws to make sure it is absolutely clear as there is not going to be a condition of approval, not staff reviewing and making sure. She stated that there are a lot of builders who don't know the laws, and if the site is less than an acre, that is who you are getting. She doesn't know how to be respectful without making sure that people know they have to be respectful.

Asst. City Attorney Murphy stated one way to do that would be through the written compliance plan. She stated that the ordinance currently has a performance standard that an operator of an emergency shelter shall have a written management plan and the Planning Director has to review a compliance plan that shows how the facility meets the requirements of the article and she thought they could add in there that the compliance plan shall also show compliance with all state and federal laws, including environmental laws.

Chair Hauser thought that was a good idea and she thought specifically stating examples of those laws, such as the ones they talked about of biological resources, archeological, paleontological resources, tribal resources. She didn't think they know so need to state them, asking if others agree.

Commissioner Berman agrees, but regarding the management plan, she was curious when that would occur in the building permit process.

Sr. Planner Harkousha stated that would be a requirement as part of the first applications if an applicant is proposing an emergency shelter, and they would first need to submit an application with their project description plan proposal to be reviewed and approved by the Planning Director and then they would submit for any potential building permits to develop the shelter.

Commissioner Berman understood, adding that they would want to make sure a developer wouldn't try to defer the management plan because a lot of the items would need to be figured out in the design process. She didn't know if that could be worked in as there is no opportunity for deferment.

Planning Director Murdock stated, on this general topic, he thought it was easy to drill down to the ultra-specific and worst case scenario, but he would provide some additional contexts. He stated that it may feel unusual that these could come in with a building permit only, but the projects that the Planning Commission has seen in C-2 districts, whether purely commercial or mixed use commercial/residential, a very high percentage of those are exempt from CEQA. He stated that they aren't analyzing or requiring them to demonstrate compliance with paleontological inadvertent discovery or specific other state and federal laws. They are categorical exempt because they are very small projects and have been determined not to have a significant impact on the environment categorically and for these projects, you can imagine a shelter for up to 20 persons or beds is not going to be a major project that is going to implicate significant environmental resource impacts. He acknowledged that human remains could be encountered, but they aren't doing that to other types of projects that, in many cases, will be largely and arguably more impactful than an emergency shelter that might be constructed.

Commissioner Berman appreciated that, adding her biggest concern would be related to wetland designation or something that would make the development unsafe itself, such as a flood zone, but FEMA flood mitigations aren't going to be addressed as it is hazardous to even the smallest project.

Planning Director Murdock stated that review is performed at the building permit stage, even if there is not a discretionary permit process. He stated that, if the FEMA maps are incomplete or erroneous, he doesn't have a safeguard in that circumstance, but most of the CEQA review is going to rely on those data sources so they will end up at the same place. He stated that, regarding the wetlands, most people recognize that developing in a wetland area is going to require agency permits and when there is a discretionary process, the city ensures there is a condition of approval. He stated that they aren't directly involved in that process as the property owner or developer is undertaking that permitting process. He stated that these are very small types of developments that are contemplated and the largest project they are talking about is a 30-bed emergency shelter and is not going to be a major development.

Commissioner Berman agreed, and stated they are talking about a builder's remedy and a developer could come in.

Chair Hauser stated that the builder's remedy is such as CEQA.

Commissioner Berman agreed.

Chair Hauser stated that, when she hears about other bigger projects already operating without CEQA, she wonders if they need to add more to those code sections so people know to do that. She stated that a wetland doesn't look like a wetland 100% of the year. She mentioned that there are all sensitive things we have, and she thought they weren't going to do that, but she didn't think it would be harmful to put some requirement on the management plan which says to be aware that these state laws exist and they must follow them.

Planning Director Murdock stated that a disclosure like that seems perfectly reasonable to him but requiring an applicant to analyze and demonstrate compliance seems very different to him and he thought he was understanding more of the latter earlier than the former. He stated that they can have a disclosure of some common place of state and federal resource protection laws that they can require them to attest that they will comply with them. He stated that a broader policy

concern is not making the ordinance look like it's targeting or making greater burdens for emergency shelters as compared to other comparable development and to impose more requirements to study, analyze or comply would begin to tilt the balance away from an even-handed treatment of emergency shelters. He thought he was hearing that they have exposed improvements in the overall development process and framework and zoning that the Commission might want to consider very seriously when they come through with a broader zoning effort as part of the phase 2 that is contemplated in the housing element and that would be a very good time to think about the range of development and, if additional baseline standards and requirements can be put in place for all development, to do it on the back of the emergency shelter ordinance would not be his recommendation.

Commissioner Wright asked if multiple emergency shelters can be built on one parcel under this ordinance.

Sr. Planner Harkousha stated only one facility can be built on one parcel, and up to a maximum of 20 people in one facility.

Commissioner Wright asked if that was regardless of the parcel size.

Sr. Planner Harkousha responded affirmatively.

Commissioner Wright thought, in practice, it seems it would be an additional burden of Coastal Commission in a large portion of our city being in the Coastal Commission zone, and he asked if they were not disincentivizing shelters from potentially being built there, thus putting an unfair burden on the rest of Pacifica, what are we doing to protect against that and how did they factor that into their considerations in putting forth the recommendation.

Planning Director Murdock didn't know that there was anything they can do to undo the process that is involved in obtaining certification of a Local Coastal Program amendment to implement these zoning provisions and there is going to be a period of time where it will be easier to construct one of these emergency shelters outside of the coastal zone than it will be inside the coastal zone which is the reality. He doesn't know if there is any way to prevent that from occurring.

Commissioner Wright asked if staff has a good enough idea of what it is that they are looking for and they can put together some proposed language for a motion or do they need to chew on this some more.

Chair Hauser feels that they are close, and staff did a good job identifying the zoning that provides all these obtrusive spaces but she doesn't feel that the sites are concentrated in one location when she looks at the big map. She didn't think it was likely that one neighborhood gets emergency shelters, but she thinks they are cleaning up the C-2 zoning district and that would be something that applies not to emergency shelters. She thinks that saying they should comply to state law should be applied to all of C-2 and she agrees that they should make sure all of the by-right stuff is thoughtful and sensitive because Pacifica cares about this and she didn't think it was in our interest or the resource's interest to be overlooked as state law already requires that it does. She thought having clarifying language shouldn't make it more obtrusive, as they are just making it more apparent and less likely for builders to violate a state law. She was in favor of doing this with the clarification that Planning Director Murdock made about making sure that this is only



applicable to direct C-2 but not any other district that refers to C-2 like the C-R and create clarifying statement for all of C-2 that by-right developments still need to comply with state law. She didn't think they should limit that one to C-2 but also refer to all the districts that refer to C-2.

Commissioner Berman suggested adding something in the performance standards section, packet page 18, 5304, such as adding a letter there.

Planning Director Murdock thought one option is to consider expanding paragraph H compliance, talking about compliance with applicable state and local uniform housing and building code requirements, and they could add further language about additionally construction and operation shall comply with state and federal resource regulations, including but not limited to, and then articulate the few that were mentioned about human remains, wetlands.

Chair Hauser thought that was a great place to put it.

Commissioner Berman thought that was an elegant insertion.

Chair Hauser requested that, when they do this, they don't just say including 962, 968, thus, not just numbers but numbers and what it relates to. She asked staff if they want the authority to be the reviewer of the compliance plan.

Planning Director Murdock stated that is how it is structured, i.e., the Planning Director reviews the compliance plan.

Chair Hauser didn't see that and must have missed it.

Asst. City Attorney Murphy stated that the compliance plan is subject to appeal, specifically the Planning Director's decision could be appealed. She stated, if an applicant didn't agree with any of the determinations on the plan, they could appeal it to the Planning Commission, and a member of the community could appeal it as well.

Councilmember Berman was willing to make the motion, but before she makes the motion, Planning Director Murdock is going to look into some items they talked about, i.e., bike parking, the management plan requirement as she thought it was helpful to reiterate the need for compliance with state laws, and modifying section 9-4.5304(H) compliance as they just discussed.

Planning Director Murdock stated that, with any commissioner considering a motion, staff asks that they also consider some of the further revisions to the recommended action that they read earlier and take these in sequence and, additionally, the amendments discussed during deliberations which include the C-R, O district exclusions, modifying paragraph (H) to require statement about compliance of state and federal law, including but not limited to resource protections, etc.

Commissioner Berman asked if anyone has any objection to some of the modifications shown on the screen.

Commissioner Berman moved that the Planning Commission finds the proposed ordinance is exempt from the California Environmental Quality Act, adopts the resolution included as Attachment A to the staff report to recommend approval of the proposed ordinance to the City Council and incorporate all maps and testimony into the record by reference and to Attachment A, make the modifications presented by staff tonight, items 1-5, as well as items that they just discussed, involving removing C-R and O districts and requirements for the management plan for developments during the building permit process as well as modification to item H in Section 9-4.5304, and additions of bike parking under the discretion of the Planning Director; Commissioner Wright seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Devine, Berman, Godwin, Wright and  
Chair Hauser

Noes: None

Chair Hauser thanked staff for making sure this happened as it was not a projected thing and they appreciated making sure everything is happening.

**CONSIDERATION:**

None

**COMMISSION COMMUNICATIONS:**

Commissioner Berman thanked her fellow commissioners, City Council and staff for all the support she had while she was out for two months and she was excited to be back. She appreciated everyone's thoughts and kindness.

Chair Hauser stated she was excited to have her back and congratulated her. She stated that it has been difficult to watch and read the news in the last month or so and she encouraged everyone to be kind to each other as it is a hard time.

**STAFF COMMUNICATIONS:**

Planning Director Murdock stated that they published the City Council's agenda packet for November 13, a study session for Council on the Local Coastal Land Use Plan (LCLUP) update. He stated it is a multi-year process the city has undertaken to update and a companion of the General Plan but focused on coastal zone. He stated that Council approved the document in February 2020 and multiple years later, they are approaching a Coastal Commission certification hearing and as part of the ramp up of that process, there is a three meeting community engagement process starting on November 13 and staff will walk through suggested modifications from the Coastal Commission proposed by their staff for part of the Local Coastal Land Use Plan approval. Staff thinks Council might be interested in considering requests for alternative modifications to those presented by Coastal Commission staff and they will walk through and educate community and Council of the 125 or so suggested modifications already proposed and make preparations for a second community meeting in early December followed by a comprehensive consideration item by City Council in late January to hopefully consider a comment letter. He stated that it is gearing up, is exciting as well as a lot of work for staff, community and decision makers. He stated that the November 13 agenda is posted and anyone can contact him or Sr. Planner Cervantes if they have questions about this or comments to submit.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Devine moved to adjourn the meeting at 8:51 p.m.; Commissioner Berman seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Devine, Berman, Godwin, Wright and  
Chair Hauser  
Noes: None

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Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Murdock