

# ADU APPEALS

Williams Trust Garage to ADU Conversions

6513 Del Playa Drive

6515 Del Playa Drive

6517 Del Playa Drive

CDP Applications Denied by SB County P&D on October 16, 2020  
Appeal denied by SB Planning Commission (3-2 vote) on April 28, 2021

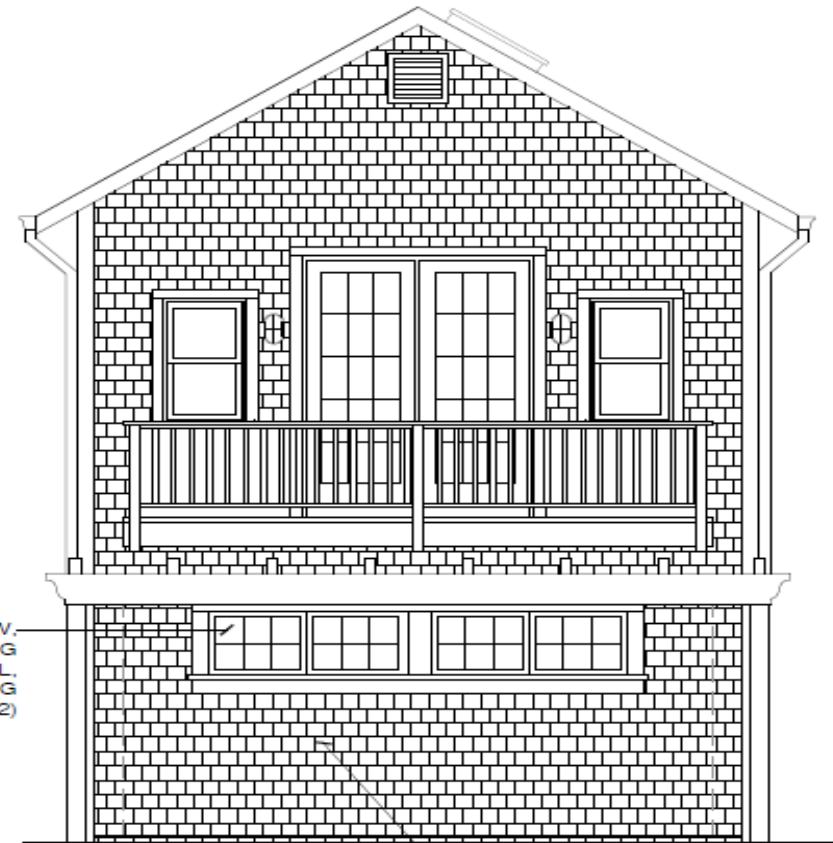
# Project overview

Aug 2020 Williams Trust filed 3 identical CDP applications to:

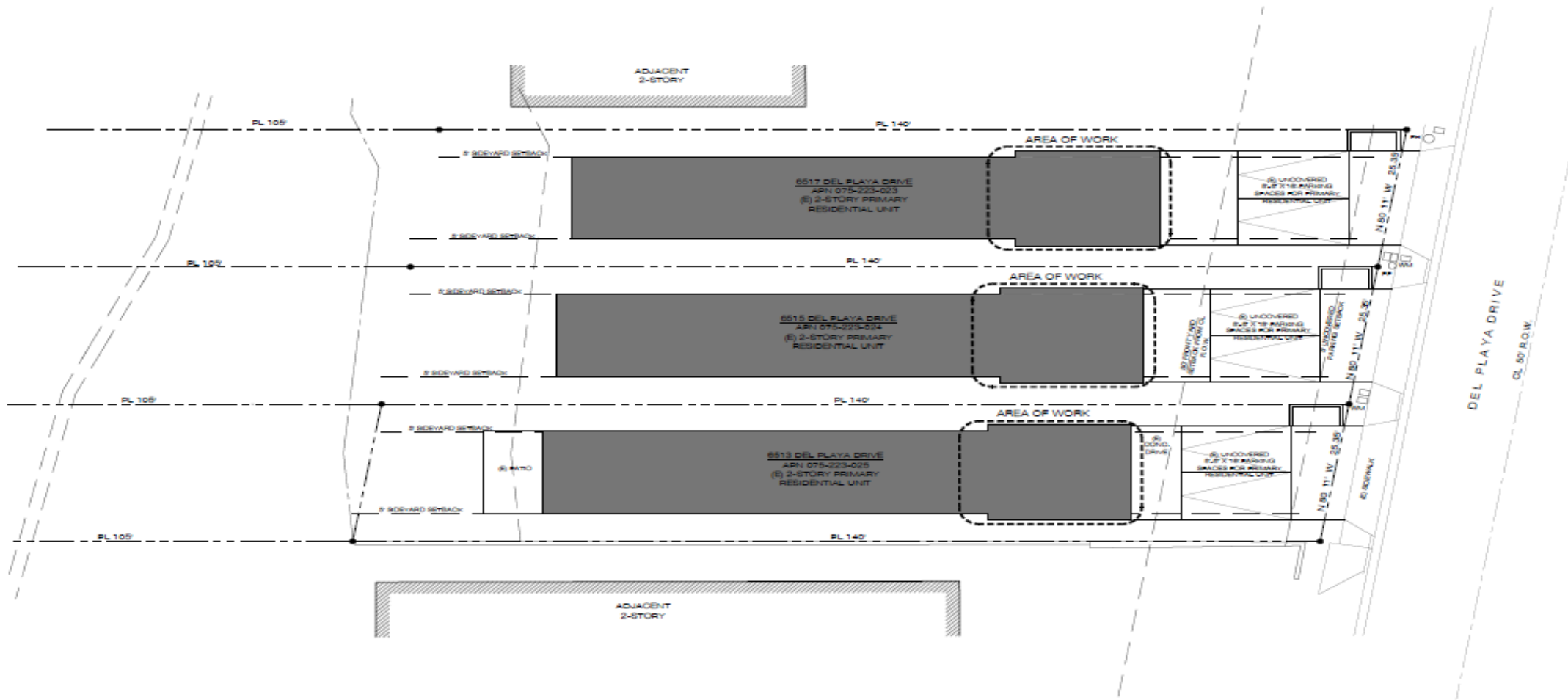
- Convert 370 sq. ft. garages of 3 bedroom Single Family Residences
  - Full kitchen (stove, oven, kitchen sink, refrigerator)
  - Full bath (toilet, shower, bathroom sink)
  - Exterior passageway, all interior rooms accessible
  - No change to setbacks
  - SR-M Residential Zoning
- Created specifically to qualify as a Section 65852.2 (e) “ADU”
- Projects comply with new proposed SB County CZO (§§ 35-142.5; 35-142.8)
- Almost no change to exterior or interior (two interior walls)
- DID NOT PROVIDE REPLACEMENT PARKING SPACES per Section 65852.2, 35-142.5.1.b



EXISTING NORTH ELEVATION



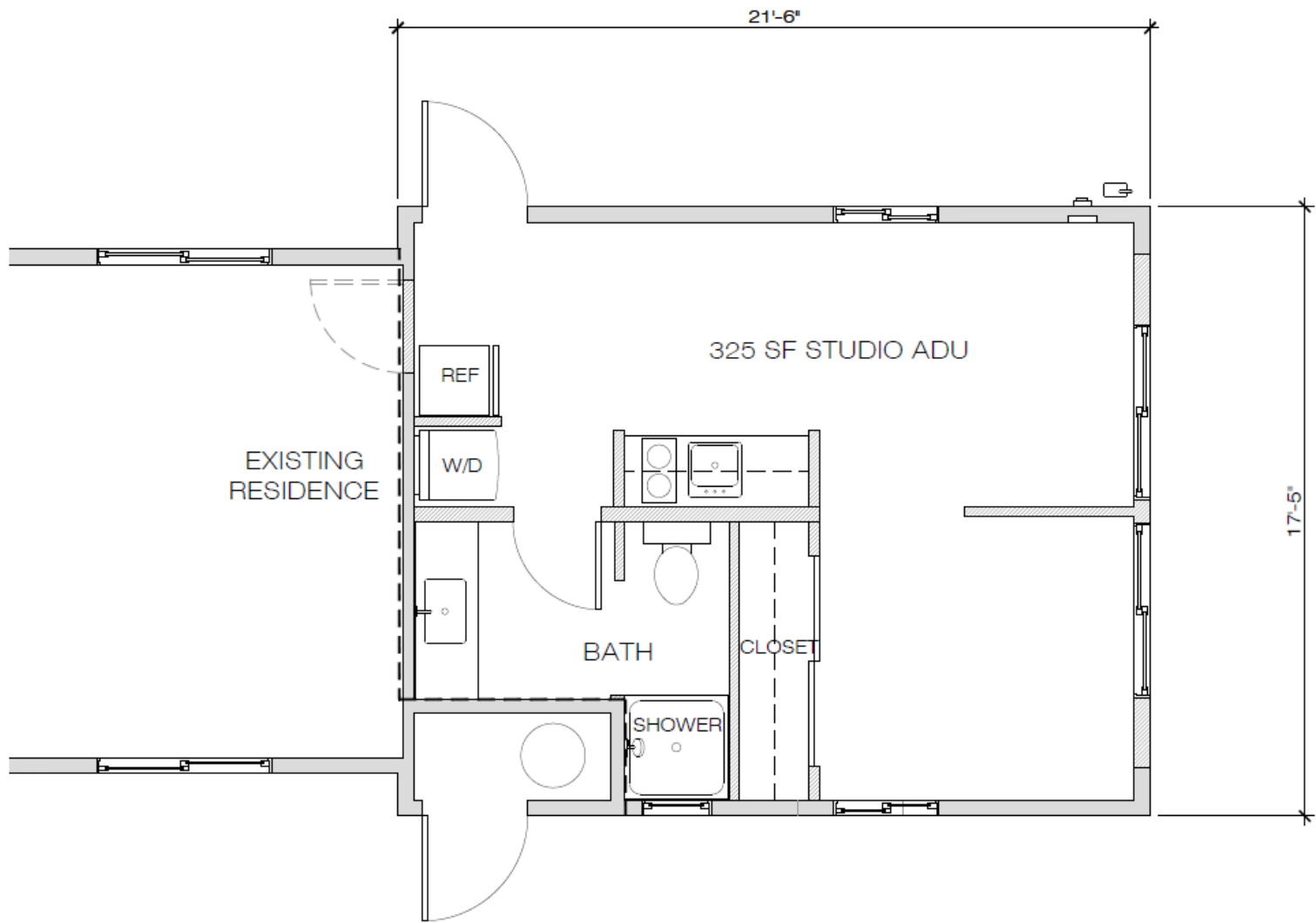
PROPOSED NORTH ELEVATION



SITE PLAN

SCALE: 1/8" = 1'-0"





PROPOSED ADU - FLOOR PLAN

SIMILAR FOR THREE UNITS  
SCALE: 1/4" = 1'-0"











# Replacement Parking CANNOT Be Req'd

Gov. Code Section 65852.2(a)(1)(D)(xi) says:

“When a garage [] is converted to an ADU, the local agency SHALL NOT require that those offstreet parking spaces for the primary unit be replaced.”

California State Housing and Community Development, ADU Handbook (Page 12, section C, second bullet point)

# P&D Denial Letter:

- P&D denied our ADU applications **because we did not provide replacement parking spaces** for the two spaces in the garages as required by Santa Barbara County's LCP in effect on October 16, 2020.
- P&D asserted that **it could still require replacement parking spaces** even though the replacement parking clauses in the existing LCP were explicitly made null and void by Gov. Code Section 65852.2(a)(1)(D)(xi).
- P&D asserted that **the public has a right to park a car at the beach** and that the County had an obligation to deny any ADU project that could put ANY additional demand on public parking spaces in Isla Vista.

# P&D's Legal Errors:

1. P&D applied portions of SBC LCP that are clearly null & void
  - County acknowledges it can't enforce replacement parking clause for ADU's and that is why it is amending LCP- **the new LCP does NOT require replacement parking**
2. P&D claimed there is **a constitutional right to park at the beach**
  - No right exists. Even if "access" requires parking, ample parking in IV to satisfy
  - If not, County could not paint curbs red all over Del Playa and access roads
3. P&D failed to balance property owner's rights v. public access rights as required by Coastal Act
  - P&D has an obligation to protect Access is not absolute, Coastal Act requires balancing property rights versus right of access. P&D did NO balancing.

# What P&D Staff Should Have Done:

“Ordinances existing prior to the new 2020 laws are ***only null and void to the extent that existing ADU ordinances conflict with state law.*** Subdivision (a)(4) of Government Code Section 65852.2 states an ordinance that fails to meet the requirements of subdivision (a) shall be null and void and shall ***apply the state standards [] until a compliant ordinance is adopted.*** However, ordinances that substantially comply with ADU law may continue to enforce the existing ordinance to the extent it complies with state law. For example, ***local governments may continue the compliant provisions of an ordinance and apply the state standards where pertinent until the ordinance is amended or replaced to fully comply with ADU law.***”

(Emphasis Added, California Housing and Community Development, ADU Handbook, Page 20, Question 8)

## Sever Offending Language, Apply the Rest:

P&D should have applied the existing LCP to the extent it did not directly conflict with Section 65852.2 *et. seq.* and followed the State law where the new State law's language directly conflicted with the existing LCP.

Had P&D follow the rules laid out by the California Department of H&CD, it would have eliminated the replacement parking requirement which is the heart of the denial.

# No Replacement Parking Req'd In New CZO

- Replacement parking under the new SB County CZO is NOT required because it would be illegal to do so under State law.
- The Planning Commission approved the new ordinance in March, 2021.
- This Board approved the new CZO in May, 2021.

# New CZO Approved By This Board

## Section 35-142.5.1.b:

**“Parking spaces not required:** Parking spaces, including replacement parking spaces to satisfy the parking requirements for the principal dwelling, **shall not be required** for an accessory dwelling unit allowed in compliance with this Section 35-142.5”

# Projects Satisfy All New CZO Requirements

## Section 35-142.5:

“[] **An accessory dwelling unit** that complies with all of the following standards, as applicable, **shall be permitted with a Coastal Development Permit** and any other approvals and shall not be subject to any other standards of this Article.”

Zoning: SR-M (Medium Density Student Residential) (§35-142.5.1.a)

Parking: No Replacement Parking (§35-142.5.1.b)

Other: One ADU per lot, exterior access, SFD on lot, entirely w/in existing one family dwelling, compliant setbacks (no changes to exterior), complete living facilities including permanent cooking, eating, living, sanitation and sleeping and interior access between all habitable rooms. (§35-142.5.2.a-d)

**We met all new requirements because the new CZO restates the State law that applied to our projects when submitted.**



# Our ADUs Won't Impair Access to the Beach

- P&D states in their Denial Letter that they have to provide “maximum access” to the beach and that maximum access requires the public be able to park a car near the beach.

# Our Parcels Don't Affect Public Access

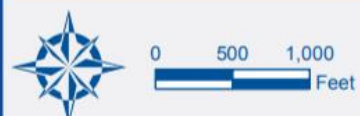
“The development is in conformance with the public access and recreation policies of Article II and the Coastal Land Use Plan.

Development of **the property would not affect public access** and recreation along the coast, **as the parcel is not located adjacent to any public access route**. Therefore, the project would be consistent with this finding.”

Findings from SB County CDP issued to Williams Trust in 2005 for 6513, 6515 and 6517 Del Playa Drive.



Document Path: G:\GIS Projects\LRDP\FigB10\_Coastal\_Access\_11x17.mxd Date: 11/15/2014



- UCSB Boundaries
- Goleta Boundary
- Coal Oil Point Reserve
- Coastal Zone Exclusion
- Coastal Zone Boundary
- Parking Lots
- Coastal Access Parking
- Existing Bike Routes
- Existing Trails
- Open Space
- Beach Stairs
- Boardwalks
- Restrooms
- Surf Showers
- Beach Access Points
- CAP = Coastal Access Program



(New Del Playa bluff side housing—no off street parking)

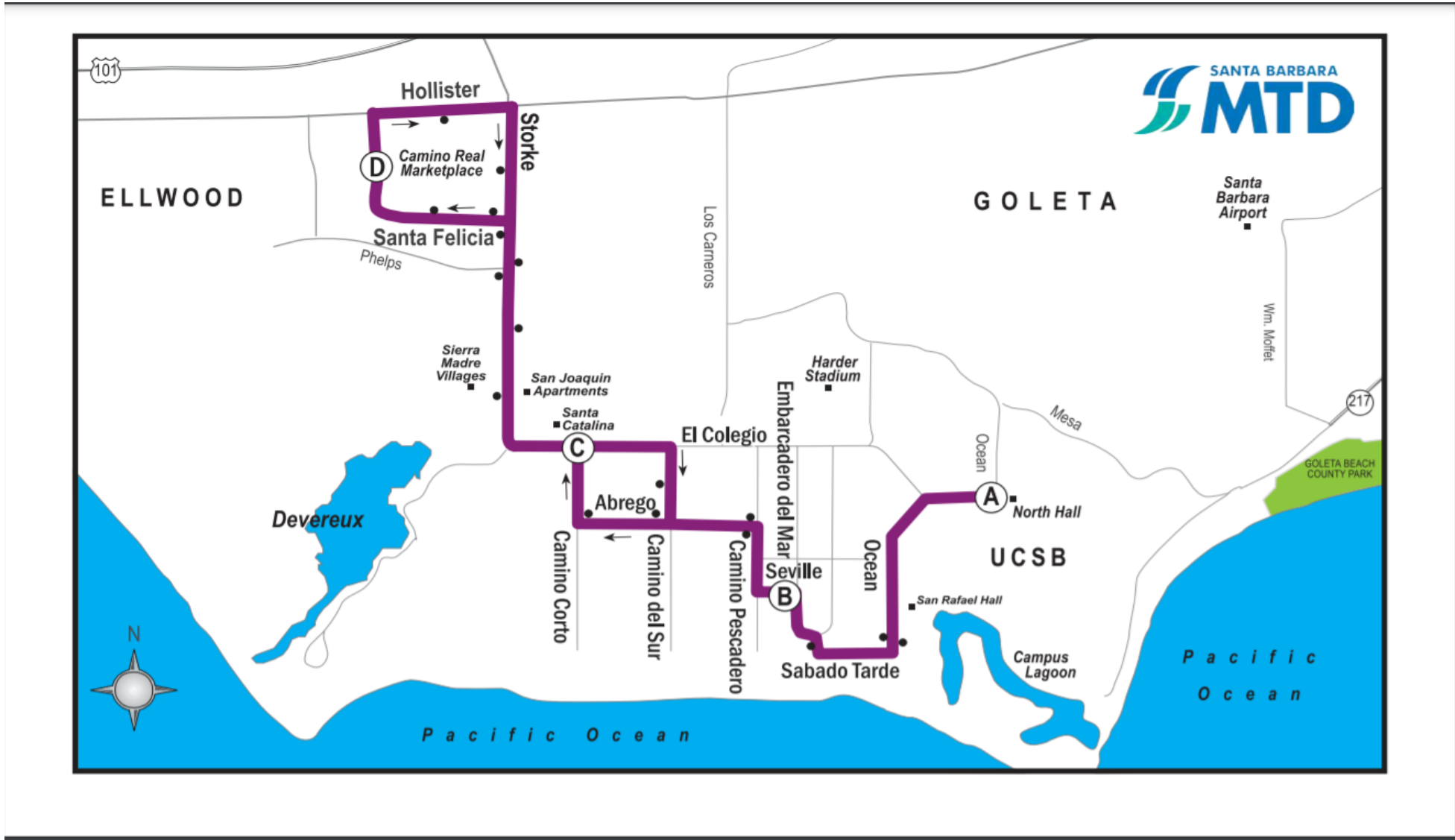
# Facts About Isla Vista Beaches

- The population of Isla Vista is 27,707 (Google)
- All residences in Isla Vista are within  $\frac{3}{4}$  of a mile of 5 Coastal Access points in I.V. (Google Maps)
- An additional 9,106 students live within  $\frac{3}{4}$  of a mile of I.V. beaches (USNews.com)
- I.V. beaches are more subject to over-access, than under-access

# Isla Vista Has Abundant Shoreline Parking

“On average, **nearly 36,000 automobiles**, 15,000 bicycles, and 8,000 pedestrians **enter Isla Vista each day**. In addition, each weekday more than 2,300 riders begin or end a public transportation trip in Isla Vista.”

Isla Vista Master Plan, County of Santa Barbara, page 2-31.  
<https://www.countyofsb.org/ceo/asset.c/154>



There are four bus stops within 1,000 feet of the projects

# Isla Vista Has Plenty of Shoreline Access:

P&D asserted Isla Vista (“I.V.”) has such a significant shortage of parking, that the public’s right to park at the beach, in order to access the beach, would be denied if our six spaces were not replaced.

- Our projects are not adjacent to a public access point
- Almost nobody drives to the beach in Isla Vista; they walk, ride, or run
- The I.V. shoreline is inaccessible about ten hours per day because of the tide
- The County regularly closes I.V. beaches (denying ALL access)
- By the County’s own statistics, 36,000 people find parking in I.V. every day!!
- There are 15 dedicated Coastal Access parking spaces within 450 ft.



(I.V. Coastal access point → curb painted red to deny public a parking space)





25



(I.V. Coastal access point → curbs painted red to deny public access to parking)



(I.V. Coastal access point → curb painted red to deny Coastal Access public parking spaces)



(I.V. Coastal access point → curb painted red to deny public a parking space)



(I.V. Coastal access point → curbs painted red to eliminate public parking denying “maximum” coastal access)

# Balancing Access v. Housing v. Property Rights

- When applying “maximum access” principles, the County is required to weigh the constitutionally protected rights of the private property owners and the public who are impacted by the “maximum access”.

# Maximum Access v Maximum Housing

Coastal Act Section 30210 states:

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

# Maximum Access v Maximum Housing

Coastal Act Section 30214(b) states:

“It is the intent of the Legislature that the public access policies of this article **be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner** with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. [ . . . ]” (Emphasis added).



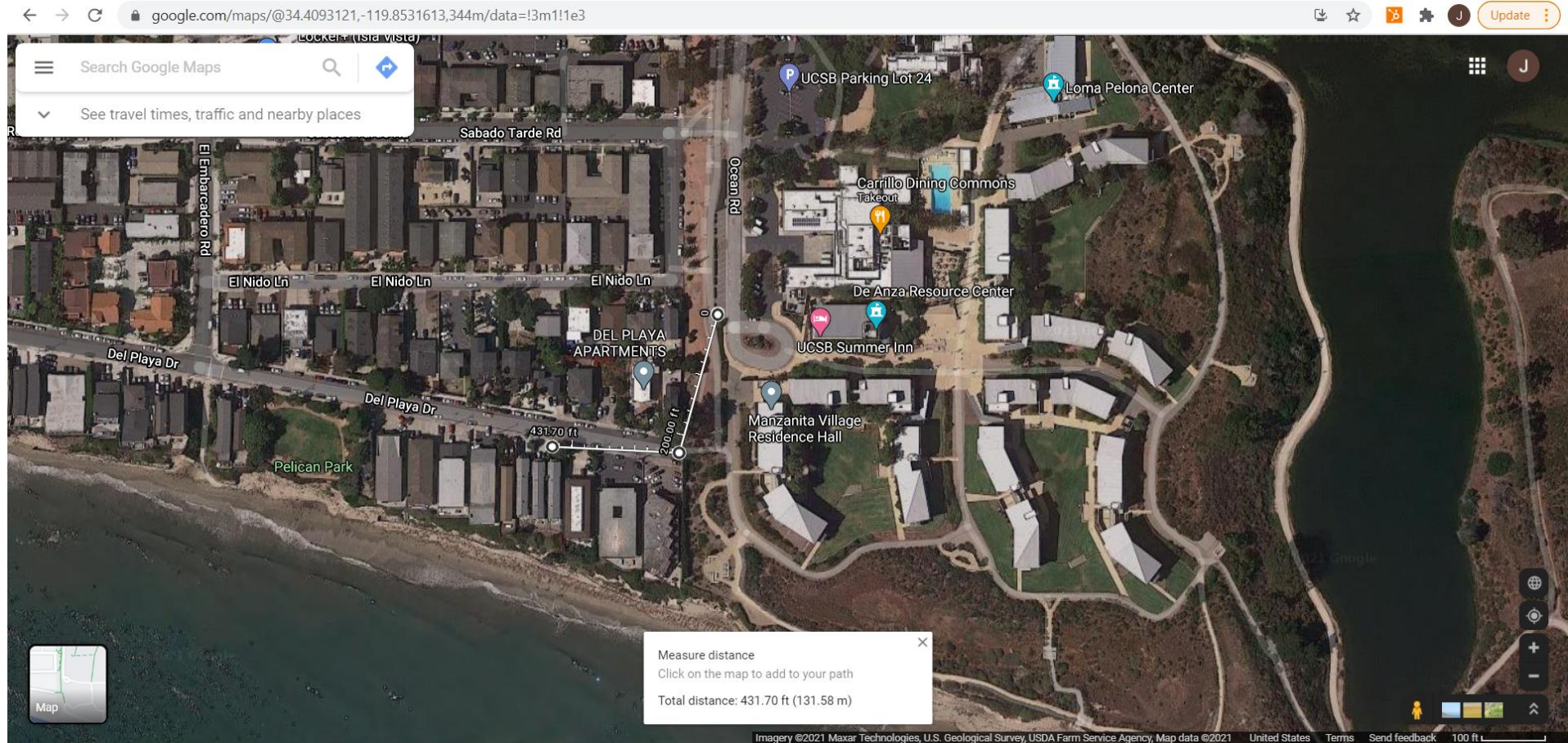
# Balancing The Interests . . .

The facts show that our six parking spaces **will have no discernable impact on access to the shoreline in Isla Vista.**

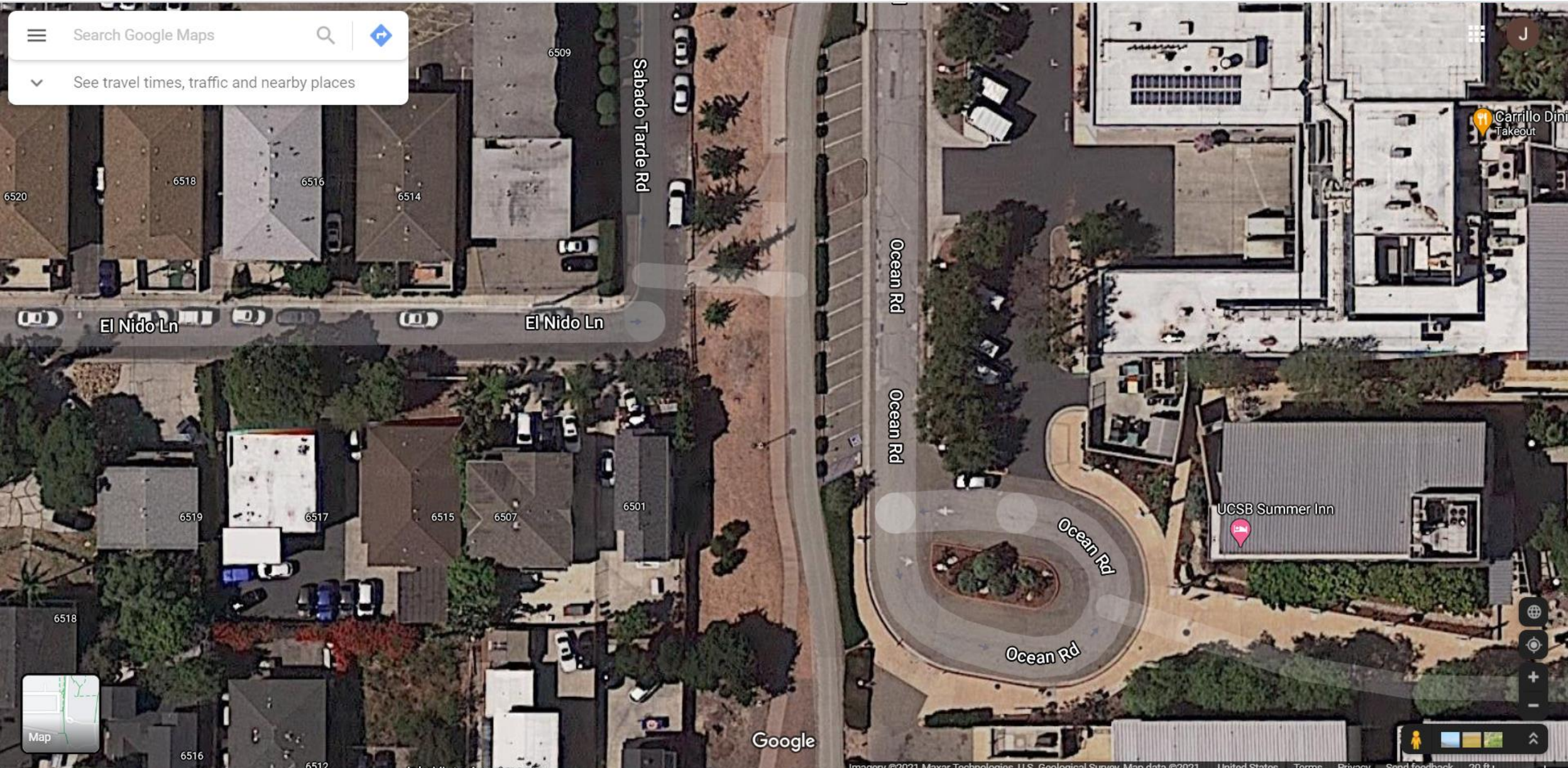
However, by interpreting 'maximum access' to mean absolutely no impact on parking is allowable, P&D eliminates ALL of the private property owner's right to develop an ADU **as entitled by the State of California.**

In our situation, a balancing of the interests tips in favor of allowing the new housing to be built.

# 15 Dedicated Coastal Access spaces 431 ft



Search Google Maps  
See travel times, traffic and nearby places



Carrillo Dini Takeout

UCSB Summer Inn

Google





37



38

# Each Lot Provides Parking For 4 Cars

- Each driveway regularly accommodates 4 cars, in tandem without infringing on the sidewalk.

6513 Del Playa driveway dimensions: 27' x 25'

6515 Del Playa driveway dimensions: 32' x 25'

6117 Del Playa driveway dimensions: 30' x 25'

- The Board should find that this parking eliminates any “Access” concerns.



(6 cars parked on a 25 foot wide Del Playa bluff property, 12 cars on 50 wide foot print)





(6779 Del Playa Drive, new development 7 bedrooms, 3 off street parking spots)



(New Del Playa Residence-7 bedrooms, 3 parking spaces)

**6866 Del Playa Dr**  
 Isla Vista, California

Google

Street View



6851 Del Playa Drive: 3 bedroom; 4.5 baths, 2,181 sq. ft.; 3 parking spaces  
 6855 Del Playa Drive: 2 bedroom; 3.5 baths, 1,704 sq. ft.; 2 parking spaces

43

Google



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(New Del Playa bluff side housing—no off street parking)

# Impacts of Approval

- Not a single trip to the shoreline in Isla Vista will be abandoned due to a lack of parking caused by our ADUs
- 3 new housing units will help decrease housing crisis
- 3-6 people will have fulltime “Access” to the shoreline
- No SB County resources will be spent litigating a replacement parking standard that clearly violates the new ADU law, and potential takings exposure.

# Inverse Condemnation Exposure (Takings):

- State of California has entitled property owners to develop an ADU in their single family residences, subject to minimum standards.
- The right to develop an ADU, and to rent that ADU, has an economic value.
- SB County is taking that economic value from the Williams Trust by enforcing a parking requirement for an alleged public use (“access” via parking near the shoreline).
- County must compensate the Williams Trust for the taking.

# Inverse Condemnation Exposure (Taking):

**“The Legislature hereby finds and declares that this division [Pub. Resources Code Section 30010] is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor.”**

Emphasis added, Thomas Felkay v. City of Santa Barbara, 62 Cal.App.5<sup>th</sup> 30 (2021).

# Inverse Condemnation Exposure (Taking):

**“Pursuant to section 30010, where a restriction would require denial of a permit that would deprive the owner of the economic benefit or productive use of the property, the local agency “has two options: deny the permit and pay just compensation; or grant the permit with conditions that mitigate the impacts that limitations were designed to prevent.”**

(McAllister, supra, 169 Cal.App.4th at p. 939.) The government entity may “limit application of the resource protection policies to the extent necessary to allow a property owner a constitutionally reasonable economic use of his or her property.” (Ibid.)”

Thomas Felkay v. City of Santa Barbara, 62 Cal.App.5<sup>th</sup> 30 (2021).



# Decision and Findings

## Decision:

- The Williams Trusts' appeals are granted and the Planning and Development Department is directed to issue the coastal development permits for Case Nos. 20CDP-00000-00060, -61, and -62.

## Findings:

- The replacement parking requirement contained in the County's certified Local Coastal Plan and Section 35-105 of the Coastal Zoning Ordinance were preempted on January 1, 2020 by Gov. Code Section 65852.2 and is not enforceable.
- Notwithstanding Gov. Code Section 65852.2, the Coastal Act still applies to these parcels. The County must apply the coastal protection policies of the Coastal Act when reviewing these CDP applications, including the provisions regarding maximum access to the beach.
- The conversion of these garages into ADUs without requiring replacement parking will not impact maximum access to the coast.
- Each project satisfies the elements of Section 65852.2(e).

# Alternative Findings (Balancing Interests)

If there is a decision that access is affected, then these findings:

- The projects may negatively impact parking near the coast and therefore lessen access to the coast, but when balanced against the right of the public to have housing, the availability of 15 dedicated Coastal Access parking spaces within 450 feet of the projects, and the right of the property owner to build the ADUs as granted by the State of California, the public good for converting the garages into ADUs outweighs the impact on coastal access.

# Alternative Findings (Just Compensation)

If there is a decision beach access requires parking spaces, and that our project impacts parking to such an extent that access to the beach is unreasonably restricted, and that this access outweighs the public's need for housing and the project owner's private property rights, then find:

- The owner has the right to convert garages without providing replacement parking, however, if the projects are built without replacement parking, the projects would have such a negative impact on the availability of public parking as to deny the public access to the coast. The County elects to deny the applications and deprive the project owners the economic benefit of the ADU rentals and will pay just compensation to the owner for the taking. Just compensation is determined to be \$750,000 per house (\$2,500 per month rent multiplied by a 4 Cap rate) for a total of \$2,250,000.