Planning Commission Revisions to LUP (05.27.16 redline version with all CCC Staff Comments) Special Meeting 01.01.16

Page 1-9, Definition of "Should" and "may":

2) "Should" and "may" are recommended~~not mandatory,~~ -unless there is a compelling reason to do otherwise~~but are strongly recommended~~; and

Page 1-18, Definition of Development:

Development: The term "development" is a term defined in the Coastal Act and is synonymous with "new development." The term is broadly defined to include (among others) proposed construction of buildings, or divisions of land. Specifically, i~~I~~n compliance with Public Resources Code §30106, "development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including subdivision in compliance with the Map Act, and any other division of land, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access to water; construction, reconstruction, demolition, or alteration in the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, and kelp harvesting. See also "Redevelopment."

Page 1-18, Definition of Redevelopment Add in Historic Buildings:

"Historic Structure Demolition". All changes to the exterior of a historic building, including but not limited to moving or removing windows, doorways, walls, or other structural features, if such changes alter more than 25 percent of the surface of all exterior walls facing a public street or streets, and/or if these changes alter more than 50 percent of the total lateral length of exterior walls, including porches and other projections of the building within a 24 month period with the exception of maintenance and repair.

Redevelopment: ~~An existing~~ A non-historic structure shall be considered redeveloped, whereby the entire structure must be made to conform with all applicable LCP policies, when such development consists of:

1) Alteration (including interior and/or exterior remodeling and renovations, demolition or partial demolition, etc.) of 50% or more of the major structural components (including exterior walls, floor and roof structure, and foundation) of such development.

2) Additions and alterations to such development that lead to more than a 50% increase in floor area for the development.

Changes to floor area and individual major structural components are measured cumulatively over time from the date that the LCP's LUP component first took effect (i.e., June 7, 1989). For historic structures, refer to the definition of "Historic Structure Demolition" presented earlier in this section.

Page 2-2, text addition:

Although the exposed granite rock mass at the Pacific Grove shoreline is generally erosion-resistant, a combination of ground squirrel and other rodent, vermin, or animal activities; wave and tidal action; and heavy pedestrian use has resulted in localized shoreline erosion. The City has historically sought to remedy this problem through a sea wall construction program and some shoreline armoring. As a result, the natural character of the Bay shoreline within the City has been altered to some extent by shoreline armoring that has been installed between Point Pinos and Point Cabrillo.

Page 2-4, Section 2.1.2, second paragraph, text removal:

Coastal Act policies relating to shoreline processes and natural hazards require that shoreline protection structures, such as seawalls, only be permitted where they serve coastal-dependent uses or protect existing structures or beaches in danger from erosion. ~~For purposes of this Land Use Plan, the term "existing" refers to legally permitted structures in existence at the time the City of Pacific Grove's LUP component of its LCP first took effect (i.e. structures built prior to June 7, 1989~~). The Coastal Act also requires that shoreline protection structures be designed to eliminate or mitigate adverse impacts on local shoreline sand supply (Public Resources Code §30235). Further, other coastal policies require that any development, such as shoreline protective devices, among other things, be sited and designed to:

Page 2-8, HAZ-2

HAZ-2. Based on the information gathered over time per Policy HAZ-1, approximately every five years or more often, if necessary, the City shall evaluate whether additional policies and other actions for inclusion in the Local Coastal Program are necessary in order to address the impacts of sea level rise and other coastal hazards, particularly those related to erosion. As applicable, such periodic evaluations may result in Local Coastal Program changes ~~designed to:~~identifying feasible adaptation strategies. The evaluations shall commence when the mean high water tidal datum referenced to the North American Vertical Datum of 1988 (NAVD88) has risen three (3) inches on average for an entire year above the current tidal epoch (1983-2001) mean high water level of 4.76 feet NAVD at the Monterey Tide Gage (NOAA Station 9413450) (i.e. when mean high water level reaches 4.93 feet NAVD88 for at least one year). See also Policy HAZ-12

~~a. Require relocation of existing or planned development, including development already protected by shoreline protective devices, to safer locations and restoring shoreline areas to natural conditions if feasible, including working with entities that plan or operate infrastructure;~~

~~b. Modify allowable land uses in hazardous areas, and modify siting and design standards for development, to avoid and minimize risks and better protect coastal resources;~~

~~c. Better protect wetlands and Environmentally Sensitive Habitat Area;~~

~~d. Update standards for determining erosion rates;~~

~~e. Ensure long term protection of the function and connectivity of existing public access and recreation resources; and~~

~~f. Require modifications to existing shoreline protective devices to ensure that such devices are meeting current standards and are functioning in a way that has the least impact on coastal resources as possible, including evaluation of possible removal and shoreline restoration~~

NOTE: A-f above are moved to the IP as suggested possible adaptation strategies noted in 2016. Other strategies, no listed above, may be appropriate for future years.

Page 2-9, HAZ-4:

HAZ-4. The City shall maintain a warning system and procedures for protection of life and property in coastal areas that are subject to storm and tsunami hazard, including informing visitors to the shoreline of the potential danger of large waves, and shall coordinate closely with the Monterey County Office of Emergency Services on the implementation and future amendment of the Monterey County Multi-jurisdictional Hazard Mitigation Plan. ~~Development subject to tsunami hazards shall be required to prepare, as a condition of approval, a tsunami preparedness plan that describes evacuation procedures and other protocols for addressing a potential tsunami event.~~

Page 2-10, HAZ-4:

HAZ-9. Development shall be sited and designed to avoid impacts from coastal hazards, including but not limited to, erosion, episodic and long-term shoreline retreat, flooding, inundation, storm waves, high seas, tidal scour, and tsunamis, including in relation to sea level rise, over the life of the development. ~~Development shall be prohibited from using or requiring shoreline protective devices (including, but not limited to, seawalls, revetments, breakwaters, groins, bluff retention devices, and piers/caisson foundation systems) at any point during the development's life.~~ As a condition of approval for all development that may be subject to coastal hazards at some point during its lifetime, the Applicant shall

record a deed restriction against the properties involved in the application acknowledging that the development site may be subject to coastal hazards~~, .acknowledging that shoreline protective devices are prohibited to protect such development, and waiving any right that may exist to construct such devices, and agreeing to remove threatened development and restore affected areas if necessary in the future subject to the requirement. All such development shall also include, as a condition of approval, the requirement to prepare a removal and restoration plan, all of which shall also be added as conditions of any approval. that ensures that, should the development become threatened by coastal hazards, the development at risk shall be removed and the site restored.~~

1- 18

- Development: The term "development" is a term defined in the Coastal Act and is synonymous with "new development." The term is broadly defined to include (among others) proposed construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters. Specifically, in compliance with Public Resources Code §30106, "development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including subdivision in compliance with the Map Act, and any other division of land, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access to water; construction, reconstruction, demolition, or alteration in the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, and kelp harvesting. See also "Redevelopment."

Commission Agenda Report

To:	Chair Stack and Members of the Planning Commission
Prepared by:	Stephanie Hawner, Associate Planner
Approved by:	Bonnie Blue, AICP, Planning Director
Date prepared:	January 8, 2016 Meeting date: January 19, 2016
Subject:	Local Coastal Program Amendment No. 14-001
Location:	Citywide
Applicant:	City of Malibu

Regulatory Context

Existing State and Federal law sets the context in which the City may restrict the use of anticoagulant rodenticides and local jurisdictions do not have the legal authority to adopt or enforce a ban on rodenticides. While banning the use of anticoagulant rodenticides in the City through the Municipal Code is not possible, the County has attempted to circumvent this limitation by instead restricting use of rodenticides in new development within the Coastal Zone utilizing its LCP.

However, the City Attorney's office is of the opinion that this LCP amendment is not enforceable, and further, while there is no case law that directly addresses this situation, Food and Agricultural Code Section 11501.1(a) specifically bars local governments from regulating or banning pesticides. Finally, a city cannot get around preemption by regulating pesticides through an LCP amendment. Public Resources Code Section 30005.5 specifically prohibits such action and states that neither a city nor the California Coastal Commission can use the Coastal Act to grant a city a power that it does not already have. Legal analysis of the preemption issue and Los Angeles County's actions is included in the attached memorandum from the City Attorney's Office

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MEMORANDUM

Date: June 1, 2016

To: Polaris Kinison Brown and Anastazia Aziz

From: David Revell, PhD

Subject: Hazard policy and sea level rise trigger

HAZ-12. Development proposed in potential hazard areas, including those that are mapped as hazardous in Figure 2, shall be evaluated for potential coastal hazards at the site, based on all readily available information and the best available science. If the initial evaluation determines that the proposed development may be subject to coastal hazards over its lifetime, a site specific hazards report prepared by a qualified geologist/engineer is required, a purpose of which is to ensure that such development can be built in a manner consistent with applicable Local Coastal Program coastal hazards policies. Regardless, development proposed in or near potential hazard areas shall conduct a site specific hazards study when the mean ~~sea~~ high water tidal datum referenced to the North American Vertical Datum of 1988 (NAVD88) ~~level is~~ has risen ~~two~~ three (3~~2~~) inches on average for an entire year above ~~2016~~ the current tidal epoch (1983-2001) mean high water level of 4.76 feet NAVD at the Monterey Tide Gage (NOAA Station 9413450) (i.e. when mean ~~sea level~~high water level reaches ~~xxx~~4.93 feet NAVD88 for at least one year) ~~at the Monterey Tide Gage (NOAA Station 9413450)~~. (Note it is possible that this could happen when they update the tidal epoch around 2020)