



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Anastazia Aziz, AICP, Principal Planner
MEETING DATE: October 17, 2018
SUBJECT: City Council Local Coastal Program Subcommittee Update and Draft Implementation Plan and Land Use Plan Documents

CEQA STATUS Does Not Constitute a “Project” under the California Environmental Quality Act (CEQA) (b)(5) because it is an organizational or administrative activity that will not result indirect or indirect physical changes in the environment

RECOMMENDATION

Receive the report and provide direction for proposed changes to the draft Implementation Plan and Land Use Plan documents.

BACKGROUND

The March 21, 2018 the City Council-appointed Local Coastal Program (LCP) Update Subcommittee (Subcommittee) composed of Mayor Kampe and Mayor Pro Tempe Huitt was tasked with meeting with Coastal Zone stakeholders and California Coastal Commission (Coastal Commission) staff and directing McCabe & Company (the City’s LCP Advocate) to assist the City in drafting revisions to the Land Use Plan (LUP) and Implementation Plan (IP). The Subcommittee reaffirmed the City’s commitment to achieve a certified Local Coastal Program with each stakeholder and listened carefully to all perspectives presented with a view to crafting an LCP that is a combination of policies that reflect local aspirations, yet are grounded in pragmatism.

DISCUSSION

The Subcommittee met several times with various stakeholders and once with Coastal Commission staff, including Mr. Dan Carl, Deputy Director of the Central Coast Coastal Commission District Office. Major policy issues that were (and remain) the subject of focused discussion with Coastal Commission staff are outlined below. Additionally, general revisions to sections of the narrative in addition to revisions in response to general public comments are included.

It is important to note that one of the fundamental goals of the Coastal Act is to provide maximum public access to the coast, which is embodied by the City of Pacific Grove. Thanks mainly to the Shoreline Park, the Recreation Trail, and public roads that occupy the majority of the shoreline, the City provides plentiful public access points and opportunities along the City’s coastlines. Coupled with Asilomar State Park, the City not only meets, but surpasses the fundamental goal of public access regulated and protected by the Coastal Act.

LCPs are essential to reaching the goal of maximum public access. The Coastal Act requires that jurisdictions protect existing and provide new public access. The City recognizes and acts on both these important principles by investing significant City resources to maintain and enhance the existing Recreational Trail, embarking on the Shoreline Management Plan, securing additional draws to the coast such as the car auction on the golf course, and hosting a diverse spectrum of coastal events throughout the year.

In light of continuing population growth that may increase demand to use California's beaches and shoreline recreational resources, an updated and certified LCP provides the City with the authority and policy framework to continue to guide the City's growth, development and protection of natural resources and coastal access. Managing all these complex and sometimes competing issues is a challenge for all coastal jurisdictions, not just the City of Pacific Grove; however, the draft LUP and IP documents follow and augment the City's past stewardship footsteps.

DRAFT LAND USE PLAN ISSUES

Definition of redevelopment and conformance requirement

The City understands this is a critical path issue for certification of the Local Coastal Program. The Coastal Commission staff is focused primarily on applying the definition of redevelopment in identified sensitive resource areas, such as hazardous shoreline areas and environmentally sensitive habitat areas (ESHA), with the intent to restrict development that may be prone to frequent flooding and susceptible to erosion and to avoid or minimize significant disruption of habitat value or biological resources in ESHA. Coastal Commission staff has stated that it is not the intention to affect legal non-conforming historic resources; nevertheless, historic resources that are located within hazard zones will need to provide an analysis of explored alternatives as cited in the draft hazard policies if any changes are proposed that require a Coastal Development Permit.

With those parameters, the City has worked on crafting a definition that meets the objectives of the Coastal Commission staff, yet still respects existing legally permitted development.

Redevelopment Conformance Trigger: *For development located within potentially hazardous shoreline areas or sensitive habitat areas, a structure shall be considered redeveloped, whereby the entire structure and all development on the site must be made to conform with all applicable LCP policies, when such development consists of:*

- A. Alteration of 50% or more of the major structural components, including exterior walls and roof structure of such development.*
- B. Additions and alterations to such development that lead to more than a 50% increase in floor area for the development.*

Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LCP.

The draft redevelopment definition uses the date of certification of the LCP to establish a baseline for determining changes to existing development. Coastal Commission staff has directed the City to use January 1, 1977, the effective date of the Coastal Act, in order to ensure consistency with the Coastal Commission's [Sea Level Rise Policy Guidance](#) document. While the 1977 date has been used in coastal development permit conditions, no other certified LCPs contain reference to 1977 in their definition of redevelopment. Application of 1977 as the baseline will limit the estimated life of existing structures

and may be difficult to implement due to the type/extent of records research required in determining prior development activities at each property.

Asilomar Dunes Neighborhood

The Asilomar Dunes residential area (bounded by Lighthouse Avenue, Asilomar Avenue and Asilomar State Beach and Conference Grounds) is the location of sand dunes that support rare and endangered biological resources. This area has long been considered by the Coastal Commission to be an environmentally sensitive habitat area (ESHA) because it includes plant and animal life and related habitats that are rare, especially valuable, and easily disturbed and degraded by human activities and developments.

The Coastal Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of policies that made an effort to balance maximizing dune and related habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. Coastal Commission staff has been clear from the beginning of the LCP Update process that the policies related to this area play a critical path role in the City's certification and are under scrutiny and review and subject to revision.

Currently, the total maximum lot coverage under the City's certified 1989 LUP is limited to 20 percent of the lot area for lots under one-half acre and 15 percent for lots greater than one-half acre. The 1989 LUP also allows an additional maximum of up to five percent of the lot area for "immediate outdoor living area" that can be used for residential activities, but may not otherwise be covered with impervious surfaces such as structures and patios, etc. The remainder of the site must be preserved exclusively as dune habitat, including through restoration and an open space restriction. These policies regarding new development and redevelopment are inconsistent with current Coastal Commission resource protection practices and not likely to be retained by the Coastal Commission.

Coastal Commission staff has made it clear through meetings and edits to draft documents that the existing policies are too complex, difficult to implement, and challenging to enforce, often leading to Code infractions and enforcement issues, particularly regarding outdoor living area. The Coastal Commission has proposed one policy to allow a Primary Coverage Area of up to 15 percent, regardless of lot size and up to 500 square feet of Outdoor Use Area (previously referred to as "immediate outdoor living area") that is permitted to be enclosed with perimeter fencing that meets certain parameters. The revised policies are an effort to simplify the policies to one that applies to all lots and to reduce the likelihood of infractions of gradual expansion of the area Outdoor Use Area, consistent with the manner in which permits have been considered by the Coastal Commission in recent years.

The current drafts include these simplified, yet more restrictive policies, for serious consideration by the Council in the Asilomar Dunes Residential Area with the exception that the Outdoor Use Area was increased up to 750 square feet and the driveway setback areas and eaves are excluded from the coverage calculation.

Sea Level Rise Hazards

Managing development to respond to coastal hazards is a key component of a local coastal program. The Coastal Act directs new development to reduce risks to life and property and avoid substantial changes to natural landforms. Hazard components of LCPs should also address emerging issues related to adapting to climate changes. The City's Coastal Commission \$130,000 grant, received in April 2014,

stipulated that the City's updated LCP address potential sea level rise hazards, including increased flooding, storm surge, tsunami, and erosion. The policies identify areas subject to coastal hazards and regulate new development to minimize risks to life and property.

The draft Hazard policies were revised to allow for a range of monitoring methods and timing given the ongoing research and improvements related to data and monitoring in this area. The policies lay out the basic ground rules for development and protection of coastal resources in hazard areas and makes reference to the Shoreline Management Plan that is currently underway.

The Shoreline Management Plan will examine and recommend maintenance and management of the City's shoreline infrastructure. It will contain a more detailed analysis of the City's shoreline and recommendation on management to protect coastal resources such as the recreation trail. The Plan will be submitted to the Coastal Commission separately for approval, as an amendment to the Coastal Parks Plan. Any future individual project proposed in the Shoreline Management Plan will be required to submit a Coastal Development permit and environmental review in order to proceed. It is important to note that the LCP and Shoreline Management Plan are separate and distinct projects and completion of one does not hinge on the other.

Scenic Policies and View Corridors

Protection of the scenic resources of the coastal zone is a central part of LCPs. Section 30251 of the Coastal Act requires in part that the scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. In Pacific Grove, the scenic qualities of the coast have long been cherished by residents and visitors alike. LCPs include protection of significant public views to and along the shoreline. Pacific Grove has done an outstanding job protecting and preserving significant public views of the shoreline and ocean by developing a public Shoreline Park that encompasses the majority of the land seaward of the first public road. The City's Shoreline Park exemplifies stellar scenic view areas that are unsurpassed and raised as an example to other coastal communities. Additionally, due to the low and small-scale development pattern and height restrictions on development, public views from scenic view points down and along City streets provide blue water ocean views.

The LUP includes draft scenic view areas and scenic view point policies that identify and protects public views of beaches, open waters, sand dunes, rocky shorelines and historic resources. The draft map, definitions and policies were updated to clarify the difference and interplay between the terms "scenic view areas" and "scenic viewpoints." Scenic view areas are clearly illustrated on the revised map as located between the first public road and the mean high tide. Scenic viewpoints offer views from public rights-of-way, primarily from City streets to either Monterey Bay or the Pacific Ocean, and are indicated with arrows. Asilomar State Park contributes to the City's unparalleled public scenic views and also has a robust dunes boardwalk system that provides not only scenic views, but also successfully protects the sensitive dunes habitat from human activities by keeping people on the trail.

Overnight Accommodations/Visitor Serving Uses

The Coastal Act places high priority on protecting and maximizing recreation and visitor serving land uses, including lower cost facilities. LCPs include policies to strive for an appropriate mix of accommodations over time that include a range of accommodation types. Prices of overnight accommodations up and down California's coast, including the Central Coast, have risen dramatically in the last decade which can be a barrier to access to middle- and lower-income California residents.

Hence, the Coastal Commission has taken a serious look at policies and options in Local Coastal Programs that can help to increase access in this area.

Pacific Grove provides a wide range of visitor accommodations, many of which are considered moderate and lower cost options, particularly when contrasted with other accommodations in the Central Coast, such as those in Pebble Beach, Carmel, or Monterey. The City can take great pride in the range of accommodations offered in the City. That said, the City already meets the Coastal Commission's goals related to provision of lower cost overnight accommodations and the policies are intended to maintain the current breadth of offerings.

Short-term (or Vacation) Rentals can help meet Coastal Act requirements to protect the priority for visitor-serving uses over residential uses and help to maximize public access. The City's LCP permits short-term rentals in the coastal zone in compliance with adopted City ordinances and regulations that serve to mitigate impacts to residential neighborhoods.

Natural Resources Protection

The Coastal Act sets standards for the protection of natural resources including sensitive species and habitats. Rare, threatened or endangered species under the California or Federal Endangered Species Act, "fully protected species" or "species of special concern" by the California Department of Fish and Wildlife and the list of "1b" species prepared by the California Native Plant Society are all used to identify sensitive species and habitats.

The policies and management measures drafted strike a balance between protecting natural resources and while still providing coastal access. Sometimes these goals conflict and limiting access in order to protect sensitive species may still be possible by a thorough vetting of solutions through the coastal development permit process as was successfully done to protect the harbor seal rookeries.

IMPLEMENTATION PLAN (IP)

The IP contains various definitions, the Coastal Development Permitting process, hazard overlay zones, marine resources, scenic resources, biological resources, legal non-conforming uses and community design standards. The requirements in the IP are intended to carry out the policies in the LUP and serve to outline technical reports and supporting documentation that are necessary to analyze a proposal's consistency with the LUP policies.

The Subcommittee affirmed using community design standards as the structure for the standard of review for Coastal Development Permits. This approach differs from other certified LCPs, but in the specific case of Pacific Grove, community design standards are the best option to address the unique voter restrictions and the hybrid Euclidian and maximum use zoning districts that are inconsistent with the Coastal Act. Within the City's coastal zone, the Coastal Act Section 30513 requires that its IP conform with, and be adequate to carry out, the provisions of its LUP. Including zoning districts and associated regulations in the IP structure poses consistency and adequacy issues for the following reasons:

- 1) Voter initiatives govern a number of zoning districts. If zoning districts are retained in the IP and modified to attain consistency with the LUP, the IP would not become effective (and thus the LCP would not be fully certified) unless the changes are subsequently approved by the voters;

- 2) The City's current zoning structure allows uses that conflict with LUP designations and policies. City zoning code is based on a hybrid of Euclidean and maximum use zoning systems in that it allows a range of uses, both residential and commercial in Commercial Zones, and allows residential, commercial and industrial uses in Industrial Zones. The Coastal Act does not allow for these inconsistencies.
- 3) The O (CZ) and U (CZ) zoning districts do not include development standards and leave full discretion to the City to implement appropriate development via a Use Permit process. The lack of any development standards to ensure that there is some guidance and governance over Coastal Act issues, such as public views and public access, would make it difficult to find that these zoning districts are adequate to carry out the provisions of the LUP.

Minor Development Permit vs. Waiver of Permit Requirements

The City has the opportunity to establish a process by which certain types of minor development located within the Coastal Zone -- but outside the appeal area or original jurisdiction -- may either be considered through a simplified "Minor Development Permit" process or through a process where the permit requirement may be waived entirely through a "Waiver of De Minimis development". In either case, the proposed development must not have the potential for any adverse effect, either individually or cumulatively, on coastal resources and must be consistent with the certified LCP. The Minor Development Permit would be issued by the City Planning Director without a public hearing. Determinations would be reported to interested parties and the Coastal Commission in writing. Similarly, any waiver of permit requirements would also be determined by the Director and reported to the Coastal Commission in writing. Each process results in a streamlined manner in which minor development projects can be considered. The draft IP document outlines the Waiver for De Minimis Development process.

Community Design Standards

The Community Design Standards were revised to ensure consistency with the Coastal Act and other City documents to avoid potential conflicts including the following:

- 1) Maintaining a 30 foot height limit in residential areas designed as Medium High Density Residential in the Land Use Plan;
- 2) Requiring one off-street parking space for residential uses for lots greater than 2,700 square feet and waived for lots less than 2,700;
- 3) Revising the Asilomar Dunes Area Design Standards to reflect the simplified LUP policies regarding Primary Coverage Area, Outdoor Use Area and fencing;
- 4) Consolidating the Visitor-Serving, Visitor-Accommodation and Sunset Service Commercial Design Standards into one section and removal of references to tree silhouetting; and,
- 5) Revising the lower cost visitor accommodation requirements and placing the requirements in the access section.

FISCAL IMPACTS

There is no fiscal impact in receiving the report and recommending proposed changes to the draft IP and LUP documents.

GOAL ALIGNMENT

Environment – Adopt the Local Coastal Plan

ATTACHMENTS

1. [Draft Land Use Plan October 2018](#)
2. [Draft Implementation Plan October 2018](#)

RESPECTFULLY SUBMITTED:

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REVIEWED BY:

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