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 Mark Brodeur, Director of Community and Economic Development
MEETING DATE:	February 21, 2018
SUBJECT:	Local Coastal Program Update – Draft Implementation Plan Structure and Timeline
CEQA STATUS	Statutory Exemption, CEQA Guidelines Section 15265, Adoption of Coastal Plans and Programs

RECOMMENDATION

Receive report and direct staff to continue to work with the Modified Implementation Plan structure that includes the Community Design Standards overlay.

BACKGROUND

The Original IP structure (Original IP), appears to be inconsistent with the City of Pacific Grove's Land Use Plan (LUP) and therefore may not meet the requirements of the Coastal Act of 1976 (Coastal Act) for certification. The City risks denial and/or major modifications to the Original IP and associated increased costs, delays and uncertainty if this version is adopted by Council and submitted to the CCC for certification.

In contrast, the Modified Implementation Plan (Modified IP), implements a Community Design Standards overlay and represents a document structure and framework consistent with the Coastal Act's requirements for a Local Coastal Program. Consistency between the LUP and IP is **required** per Coastal Act S. 30513.

DISCUSSION

The City does not have a certified Local Coastal Program, and as such, the CCC retains and performs the function of a state approval authority, as authorized under the Coastal Act §30513 within the coastal zone. All coastal development permits are approved and issued by the CCC. *Attachment 1* contains an overview of the benefits of certification.

The Planning Commission spent much of 2015 and 2016 working various drafts of the LUP and IP. The Commission held over numerous public meetings, attended workshops and study sessions, and listened to and considered a variety of perspectives on a number of complex issues. Commissioners provided a recommendation to Council on December 8, 2016 on the LUP and Original IP.

On March 1 and April 4, 2017, Council discussed Planning Commission recommended draft documents, including the Original IP, and made various modifications resulting in the April 2017 City Council Draft LUP (Council LUP). The CCC staff sent letters on March 1 and August 2, 2017 *(Attachment 2)* acknowledging the City's hard work behind the Council LUP, but encouraging more time and effort on

the Original IP. The CCC indicated that the zoning districts in the Original IP were problematic for a number of reasons, including that they were inconsistent with the Council LUP land use designations (*Attachment 3*). As a result, the Council did not fully discuss the Original IP, but instead elected to wait for full CCC comments.

Implementation Plan Structure Reworked
To resolve inconsistencies with the City's LUP, a Modified IP with a Community Design Standards overlay rather than zoning districts was drafted. This did not eliminate the City's zoning districts and is a preferred alternative to rewriting the zoning districts or modifying voter initiative zoning districts. Additionally, retaining zoning districts outside of the Local Coastal Program will ensure that the Coastal Commission will not interfere with the direct relationship between the citizens of Pacific Grove and voter-approved zoning districts: O, U, R-3-M, and C-V-ATC.

City staff suggested changes to the Modified IP in an effort to find a path forward to certification and enable a consistency finding between the Council LUP and Modified IP. This was seen, and is still viewed by City staff, as the preferable course for the reasons cited in *Attachment 4*.

The Modified IP was posted for review on the City's Local Coastal Program Update website in November 2017. Due to the scope of the changes proposed in the Modified IP, it was referred back to the Planning Commission for review and consideration. In its presentation to the Commission, City staff suggested edits to the Modified IP to better align it with the City Council LUP. At its January 11, 2018 special meeting, the Planning Commission rejected staff's recommended edits to the Modified IP, rejecting the Community Design Standards overlay structure, and recommended the December 8, 2016 Local Coastal Program, including the Original IP with zoning districts identified as problematic and inconsistent with the Council LUP. January 11, 2018 Planning Commission meeting minutes are included under Item 10 of the February 21, 2017 Council Agenda.

City staff recommends continuing to work with the Modified IP and to align it as closely to the City's zoning district development regulations as possible. The Council LUP and Modified IP, with staff suggested changes, would be brought forward for Council consideration and adoption. This option continues the City's timely path for submission to the Coastal Commission and demonstrates the City's willingness to seek an IP that is consistent with the Coastal Act. Continuing good faith negotiations with the Coastal Commission staff plays an essential role in certification.

OPTIONS

Council can direct staff to explore options listed below and staff will adjust the timeline and workplan accordingly. Options to consider include but are not limited to:

1. As recommended by the Planning Commission, prepare the Original IP for Council review and adoption along with the Council LUP. This will most likely result in denial and/or major modifications to the Original IP and the City's administrative costs will increase.

2. Explore other IP structural options with the CCC staff and the public and hold a workshop. This would result in a delay of at least 12 months and increased administrative costs. Exploring other IP structural options may include:
    a. simplifying and reducing the number of zoning districts in the coastal zone:

b. exploring the extent changes to voter initiated zoning districts can be changed without triggering another vote; and,
c. other options not yet identified.

3. Take no action at this time. This will result in the LCP update project going dormant and will fail to achieve the certification the City and CCC has been striving to finish for over 25 years.

Next Steps
Dependent on the structure of the IP, staff will work on an associated workplan and timeline. If Council adopts the staff recommendation and work continues on the modified IP structure the timeline below may be feasible.

2018 Local Coastal Program Revised Adoption Timeline

Activity	Date
City Council Local Coastal Program Hearing	March 21, 2018
Submit to Coastal Commission	April 2018
Coastal Commission Hearing	July 2018
Council Adoption of Certified Local Coastal Program	August 2018

Note: Timeline subject to change

FICAL IMPACT
If Council opts for another option other than staff recommendation, staff time and resources will need to be allocated depending on the associated workplan and the anticipated approval timeline will likely be delayed by at least 12 months.

GOAL ALIGNMENT
This agenda item is consistent with City Council Goal #5 – Environment – Preserve the community's unique natural assets and resources through appropriate environmental stewardship. The Local Coastal Program is a key strategy to fulfill this goal.

ATTACHMENTS
1. Benefits of Certification
2. Coastal Commission correspondence.
3. Land Use Plan land use designations and Zoning District inconsistencies.
4. Benefits of the Community Design Standards approach
5. Coastal zone map

RESPECTFULLY SUBMITTED:

Anastazia Aziz

Anastazia Aziz, AICP
Principal Planner

REVIEWED BY:

Ben Harvey,
City Manager

Mark Brodeur, Director
Community and Economic Development Dept.

BENEFITS OF CERTIFICATION

Pursuant to the Coastal Act, the City's Local Coastal Program requires two main components for certification: 1) an LUP, and; 2) a separately published IP. Section 30512 of the Coastal Act gives the CCC the authority to modify the LUP and IP.

The Coastal Commission certified the City's 1989 LUP; however, the City never finalized and received certification of an IP. Therefore, the City lacked a completed Local Coastal Program, and jurisdiction over the City's coastal zone has remained under the purview of the Coastal Commission. This status presents ongoing challenges in that:

1) the City encompasses and- in some cases- owns substantial land in the coastal zone, such as the Shoreline Park system and golf course. These areas are subject to the CCC for approval of coastal development permits;
2) the CCC's interpretation and application of the Coastal Act continues to evolve and may result in increased conditions and technical requirements applied to permits;
3) because of #1 and #2 above, the timeline and permitting process and associated uncertainty for property owners, including the City, is increased.

Certification offers the City benefits. Therefore, the City has been working on a comprehensive update in which it has invested considerable time and resources since 2014. A certified LCP would:

- Transfer coastal development permitting authority to the City. Until the City receives this authority, land use and development in the City's coastal zone is **directly overseen** by the Coastal Commission. Coastal Development Permits, currently issued by the CCC, are the **dominant permit** in the coastal zone, and where conflicts arise between City issued permits such as an Architectural or Use permit, the City issued permit is subordinate to the Coastal Development Permit.

- Provide a framework for the upcoming Shoreline Management Plan, another significant City investment, that hinges on many of the draft policies in the LUP. The Shoreline Management Plan was a required condition associated with previous Coastal Development Permits issued by the CCC to the City for repair of shoreline protective devices.

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March 1, 2017

Honorable Councilmembers
City of Pacific Grove City Council
300 Forest Ave.
Pacific Grove, CA 93950

Subject: City Council Agenda Item 4.A Regarding the City of Pacific Grove Local Coastal Program (LCP) Completion Process

Dear Mayor Kampe and Members of the Pacific Grove City Council:

Thank you for the opportunity to provide comments on the City's proposed LCP that you will be reviewing this evening. The Pacific Grove LCP, comprised of both a Land Use Plan (LUP) and an Implementation Plan (IP), will be the document that the City and Coastal Commission will use to plan for and regulate development within the City's coastal zone in order to achieve the objectives of the Coastal Act and the City. Once the LCP is certified by the Coastal Commission, the City will be given the authority to issue coastal development permits for most development, subject to the standards of the certified LCP. The LCP is thus a critical and important document, and we very much appreciate the effort that has gone into crafting it, including the work of your staff with whom we have been collaborating. It is our understanding that City staff is recommending that the City Council adopt both the LUP and IP as approved by the City's Planning Commission, and authorize City staff to submit the LCP to the Coastal Commission for certification. Please consider the following comments as you make your decision.

With respect to the LUP, Commission and City staff have worked collaboratively and diligently to update the LUP to address current coastal resource and planning issues within Pacific Grove. During this time Commission staff has provided specific comments on the various LUP drafts as they have made their way through the local process. This has allowed a thorough vetting of the issues, including through our active participation at several Planning Commission meetings. While your staff and the Planning Commission embraced many of our suggestions, there remain certain substantive policy differences on key issues, which City staff has identified for you in their staff report for this item (see pages 2-5). We continue to believe that our edits, which have been provided to you, are necessary to ensure the LUP's consistency with the Coastal Act, and we recommend that you adopt the LUP with those suggestions tonight. We will attend the meeting tonight and will be available to discuss our suggestions, including the underlying reasons for them, should you desire additional explanation.

With respect to the IP, it has not benefitted from the same collaboration and vetting process as the LUP, for a variety of reasons, and additional collaboration is appropriate to further flesh out certain aspects of it to ensure that it can effectively carry out the LUP. We have discussed this issue with City staff, and, if adopted tonight, we have all agreed on a process to ensure that the IP

receives additional attention. We have agreed that if the City Council chooses to adopt the IP at tonight's meeting, we will continue to work on specific IP language with your staff over the next couple of months to identify and resolve remaining issues, which you would then have an opportunity to review following that effort. At that point, we would then expect to begin the formal LCP amendment process at the Commission level. We believe that this agreed-upon process will allow us to reach a Coastal Commission hearing as quickly as possible and with the least amount of potential issues, and ultimately leading to the best possible LCP to protect Pacific Grove's considerable coastal resources moving forward. We very much appreciate City staff's willingness to problem solve in this way, and to work together toward that common goal.

In sum, we very much appreciate the City's efforts and commitment to the LCP process to date, and we look forward to continued collaboration moving forward to our shared goal of LCP certification for the City. Thank you to your staff and to the Pacific Grove community for all of the hard work and the level of thoughtful engagement in the LCP, and we look forward to a continued joint effort to timely certify it and provide the City a new tool for coastal resource protection and planning moving forward. Thank you for considering our comments.

Regards,

Brian O'Neill
Coastal Planner
Central Coast District Office

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August 2, 2017

Mayor Kampe and Honorable Councilmembers
City of Pacific Grove City Council
300 Forest Ave.
Pacific Grove, CA 93950

Subject: Agenda Item 8.A. Local Coastal Program (LCP) Update

Dear Honorable Mayor Kampe and Members of the Pacific Grove City Council:

Thank you for the opportunity to provide comments on the Local Coastal Program Update. As noted in the City's Staff Report, our office has provided substantial comments and edits with regard to the City's draft Implementation Plan (IP). We believe that the suggested edits and format reflect the intended purpose of the IP, which is to carry out the coastal resource protection standards and policies outlined in the Land Use Plan rather than introduce new or additional standards. To that end, the edits to the IP are designed to provide the permit procedures and application requirements necessary to ensure that proposed development projects conform with LUP policies and requirements. We have worked closely with City staff and believe we are in agreement that the suggested edits provide a clear and concise document that will ensure effective and efficient issuance of coastal permits. We will continue to work with City staff in the coming months to fine tune the document.

With respect to the potential elimination of zoning districts, we are again in agreement with City staff that removing the zoning districts from the IP is the best alternative in order to develop an IP that conforms with the LUP. The existing 1989 LUP and current draft LUP already contain Land Use Designations that provide for appropriate uses within different areas of the City's Coastal Zone. The various resource protection sections of the LUP (i.e., biological, scenic, water, etc.) provide robust coastal resource protection policies that implement the statewide concerns outlined in the Coastal Act. Both City staff and our office believe that keeping the zoning designations within the LCP unnecessarily complicates the document without providing additional coastal resource benefits.

To be clear, the zoning districts and voter initiative provisions will remain an important part of the City's municipal code and City permit process. However, these would not be utilized as a standard of review for Coastal Development Permits, much the same way Coastal Development Permits are currently reviewed, with the Coastal Act as the standard of review. Inclusion of the zoning districts and voter initiatives in the LCP could needlessly result in the Coastal Commission's involvement on these issues. We therefore support keeping these provisions outside of the LCP context.

Our office has worked cooperatively with City staff thus far to develop a strong LUP and believe that we are close to the same outcome with the IP. We will continue to offer our time and expertise to make the necessary revisions in an effort to reach our shared goal of a fully certified LCP. We commend City staff and the Pacific Grove community for its extensive work thus far in the LCP update process. We look forward to a continued joint effort to certify the LCP. Thank you for considering our comments.

Regards,

Brian O'Neill
Coastal Planner
Central Coast District Office

ORIGINAL IMPLEMENTATION PLAN STRUCTURAL ISSUES

The problem: The Original Implementation Plan (Original IP) appears to be inconsistent with the Council Land Use Plan (Council LUP) and therefore may not meet the requirements of the Coastal Act for certification.

Consistency with the Coastal Act is Required
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 in the Original IP structure poses consistency and adequacy issues between the Original IP and Council LUP following reasons:

1) Voter initiatives govern a number of zoning districts. If zoning districts are retained in the Original IP and modified to attain consistency with the Council LUP, the Original IP would not become effective (and thus the LUP 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 Council LUP designations and policies as shown in the table below. 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 residential and 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.

The table below illustrates the inconsistencies between the 17 proposed CZ zoning districts in the Original IP and the nine proposed Council LUP designations. Additionally the O and U zoning district lack development standards and are crafted on a project by project basis subject to Planning Commission approval. Zoning districts subject to voter initiatives are **bolded and underlined**. Areas of inconsistency are **bold**.

Land Use Plan Designation & allowed uses	Applied CZ Zoning District and Allowed Uses	CZ Zoning District Development Standards	Consistent
Low Density Residential -single-family residential uses	R-1-B-4 -single-family residential	Yes	Yes
Medium Density Residential Mobile	M-H -mobile homes	Yes	Yes

Home Park -mobile homes			
Medium Density Residential -single-family and multi-family uses	R-3-PGB & R-3-PGR, R-4 -single-family, multi-family, **bed and breakfast** -**professional office uses in R-4**	Yes	**No – allows commercial uses in residential zoning district**
Visitor Accommodation -hotels & motels	**R-3-M** -single-family residential, multi-family residential, hotels and motels R-3-M subject to voter initiative	Yes	**No – allows residential uses**
Visitor-Commercial -visitor serving commercial uses and visitor accommodation	**C-V-ATC**, C-V, C-1, C-2, R-4 -C-V-ATC subject to voter initiative	Yes	**No – zoning allows residential uses and commercial uses that are not considered visitor-serving**
Sunset Service Commercial -light industrial, heavy commercial and visitor-serving commercial uses	SSC (new proposed zoning district)	Yes – proposed	Yes
Open Space Institutional -open space & Asilomar Conference grounds, Hopkins Marine Station and NOAA, Monterey Bay Aquarium, Lighthouse Reservation, critical infrastructure	**O**, R-1-B-3, **R-3-M**, **U** -open space, recreation, civic, schools, single-family residential, multi-family residential, hotels and motels	**No – O, U** Yes – R-1-B-3, R-3-M	**No – zoning allows residential and commercial uses**
Open Space Recreational -low intensity recreational uses	**O & U**	**No**	**No – U allows schools**
Recreational Trail -recreational bicycle and pedestrian trail	**O**	**No**	Yes

ATTACHMENT 4

NEWLY PROPOSED CCC IMPLEMENTATION PLAN

Is an *Overlay* to City zoning districts

Community Design Standards: similar to city zoning regs. (height, lot coverage, setbacks)

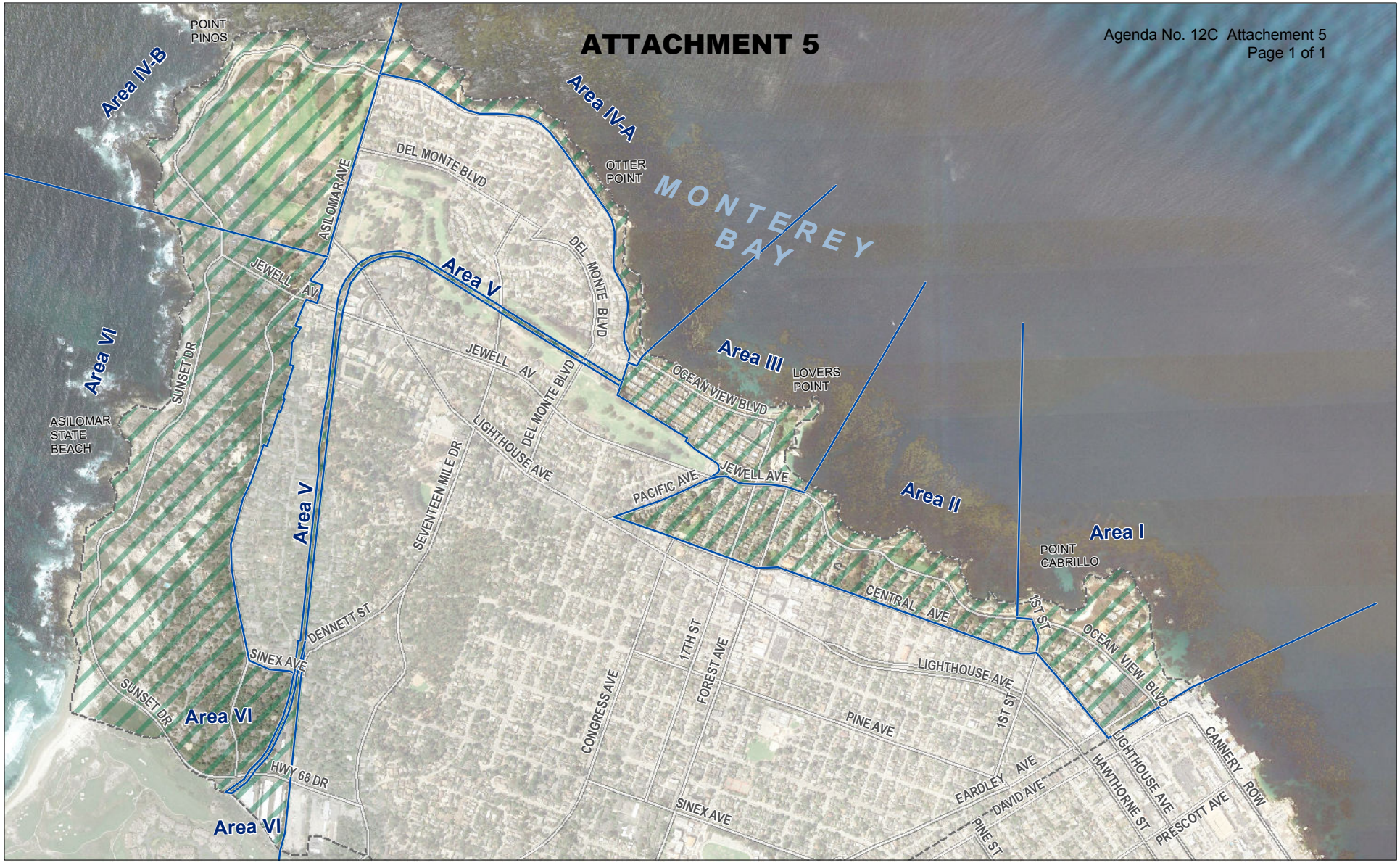
Simplifies amendments to city's zoning code that do not require going back for CCC approval

City base code's complexity – this IP protects PG's established ballot initiatives

IP focuses on coastal related issues, rather than broad City-wide zoning regulations

Protects city's base zoning from CCC interference

ATTACHMENT 5



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Legend

- Planning Area Boundaries
- City of Pacific Grove
- Major Roads
- Coastal Zone

Source: City of Pacific Grove, Google Earth 2013

Coastal Zone and Planning Areas

City of Pacific Grove Land Use Plan