



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: July 11, 2018
SUBJECT: Local Coastal Program Council Subcommittee Update
CEQA STATUS Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378.

RECOMMENDATION

Accept as information.

BACKGROUND

On March 21, 2018 Council appointed a Local Coastal Program (LCP) Update Subcommittee originally composed of Mayor Kampe, Mayor Pro Tem Huitt and Councilmember Smith to serve through September 21, 2018. The Subcommittee was tasked with reviewing staff recommendations for a lead consultant and a legal expert to review the documents and make a recommendation with next steps to move forward. Councilmember Smith stepped down due to potential conflicts of interest and the Subcommittee is composed of the Mayor and Mayor Pro Tem.

McCabe and Company was hired to devise an overall strategy for successfully advancing the City’s draft LUP and IP to the Coastal Commission for approval. The consultant will serve as the City’s advocate and coordinate the overall LCP effort on behalf of the City, working with an additional legal consultant, City staff, Commission staff and community stakeholders. The municipal law firm of Best, Best & Krieger has been retained as a legal consultant for this effort.

DISCUSSION

To date, the Subcommittee has met several times. At their June 11 meeting, the Subcommittee, working with McCabe and Company and City staff, reaffirmed the City’s commitment to achieve a certified Local Coastal Program, discussed a proposed approach, and reviewed the major outstanding issues. Major policy issues that were the subject of focused discussion and remain points of 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 under consideration such as the definition of “Lodging, Bed and Breakfast” and policies regarding intertidal species such as the Black Oystercatcher.

At the June 21, 2018 meeting, Planning Commission Chair Fredrickson and Commissioner Byrne joined a portion of the Subcommittee meeting to provide the Subcommittee their perspective as Planning Commissioners.

CERTIFICATION GOAL

It is the City's goal to receive LCP certification through concurrent adoption of an Updated Land Use Plan (LUP) and new Implementation Plan (IP). Certification of the LCP will give the City control over approving projects within the Coastal Zone and will streamline the coastal development permit review process for applicants. It is in the best interest of the City and its constituents to achieve certification and assume control of the permitting process. Once certified, the LCP will be carried out by local planning staff that are familiar with the unique physical characteristics and policy issues affecting Pacific Grove.

In order for the City to achieve LCP certification status and gain full permit authority over coastal projects, the Coastal Commission must approve both the LUP and new IP. Recent feedback from Coastal Commission district staff suggests significant formatting and policy revisions are required in order for staff to recommend approval of the LUP and IP documents. If this preliminary staff feedback is not incorporated prior to final Council approval and submittal to the Coastal Commission, the same revisions will be imposed as "suggested modifications" in the staff recommendation and findings presented to the Commission at the LCP hearing. Coastal Commissioners weigh their staff's opinion highly and are likely to impose many, if not all, of the modifications that are suggested by Commission staff. Certification can only occur if the City accepts the suggestions made by the Coastal Commission.

PROPOSED APPROACH

Planning staff has been advised to accept Coastal Commission staff input and incorporate recommended changes into the City's proposed LCP documents where acceptable, so long as such changes are not in direct conflict with significant local goals and policies. In instances where Coastal Commission staff's proposed revisions are unacceptable, a written justification of the City's position should be prepared and discussed with senior staff at the Coastal Commission prior to final City approval and submittal of the LUP and IP. The goal is to narrow areas of disagreement prior to formal consideration by the Coastal Commission. City staff and Coastal Commission staff can continue to have ongoing and productive discussions after the City's submittal of its LUP and IP. However, where minor differences can be resolved, such as re-formatting and language edits, they should be done prior to submittal. Acceptance and support of the City's LUP and IP by Coastal Commission staff is much more likely if the proposed documents follow staff's preferred format and incorporate recent Commission precedent. The likelihood of a positive staff recommendation and subsequent certification by the Coastal Commission is much greater when staff input has been incorporated.

Furthermore, the likelihood of future appeals decreases if the Coastal Commission staff feels confident in the final LCP as certified. As in the case of the City of Newport Beach, which received full certification and permit authority in January 2017, there has only been one appeal of the 137 coastal development permits issued by the City to date. This is a significantly lower appeal ratio than any City with an older LCP. (Appeals of local coastal development permits can be filed either by a party that participates in the local permitting process or by two members of the Coastal Commission.) Commission-generated appeals are more likely when local staff and Coastal Commission staff disagree about the interpretation of policies the LCP. These disagreements are far less likely when the LCP has been recently updated and certified in a manner consistent with recent trends and precedent. Moreover, it is important to point out that LCPs approved in recent years are far more detailed and comprehensive than those certified previously, and this trend is expected to continue into the foreseeable future. As such, it's in the City's best interest to solidify the rules in place now, rather than continue to have applicants go to the Coastal Commission and be subject to policy interpretation on a case-by-case basis.

Without LCP certification, the Commission will retain permit authority and the coastal development permit process will remain as it exists today.

DRAFT LAND USE PLAN ISSUES

Definition of redevelopment

Legally permitted redevelopment is an important term to define in order to determine legal non-conforming status and when a structure must be brought into full conformance with coastal regulations. The definition of redevelopment is under review so that it meets the City's needs and is consistent with definitions in various other certified Local Coastal Programs.

Sea Level Rise Hazards

The City's Coastal Commission grant stipulated that the City's Updated Local Coastal Program address sea level rise. The draft Hazard policies are undergoing review to ensure they allow for the full range of options, particularly for City facilities and infrastructure, of armoring, adaptation and retreat given site specific contexts.

Scenic Policies and View Corridors

The Land Use Plan includes draft scenic and view corridor policies. The draft policies are under review to ensure they are consistent with other approved Local Coastal Programs and reflect the character of Pacific Grove.

Asilomar Dunes Neighborhood

The Asilomar Dunes residential area (bounded by Lighthouse Ave, Asilomar Avenue and Asilomar State Beach and Conference Grounds) is the location of sand dunes that support rare and endangered biological resources. The draft policies regarding Outdoor Use Area and fencing in addition to Subdivision are also under review to ensure consistency with the Coastal Act and other jurisdictions that permit development and/or redevelopment in Environmentally Sensitive Habitat Areas (ESHA).

IMPLEMENTATION PLAN ISSUE

The Implementation Plan contains various definitions, the coastal development permitting process, hazard overlay zones, marine resources, scenic resources, biological resources, legal non-conforming uses and commercial zoning standards. The requirements in the Implementation Plan are based on the policies in the Land Use Plan.

Community Design Standards

The Subcommittee affirmed using Community Design Standards as the structure for the standard of review for Coastal Development Permits. The Community Design Standards are under further review to ensure consistency with the Coastal Act and other City documents to avoid potential conflicts.

CERTIFICATION TIMELINE

1. ***August 2018:*** City Council Subcommittee to engage with key community stakeholders regarding draft land use plan issues, and other identified concerns. If appropriate, modify draft Implementation Plan (IP) and draft Land Use Plan (LUP) documents accordingly.
2. ***September 2018:*** Present draft Implementation Plan (IP) and Land Use Plan (LUP) documents to City Council for review, consideration and approval.
3. ***October 2018:*** Submit City Council-approved IP and LUP to Coastal Commission staff for review and scheduling before Coastal Commission for anticipated certification.

FISCAL IMPACT

There is no fiscal impact in receiving the report.

GOAL ALIGNMENT

Environment – Adopt the Local Coastal Plan

RESPECTFULLY SUBMITTED:

REVIEWED BY:

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Ben Harvey

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