February 21, 2018

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

Subject: Agenda Item No. 12C, 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 LCP Update. As explained in the City's Staff Report, the Original Implementation Plan (IP) raises issues of consistency with the Land Use Plan (LUP), which poses a significant obstacle to reaching our shared goal of a fully certified LCP and the City taking jurisdiction over most Coastal Development Permits (CDPs) within the City’s Coastal Zone. We have had numerous discussions with City staff over the years on how to address this issue and together have identified the Modified IP as the best path forward toward certification. We thus strongly urge you to support your staffs' recommendation and utilize the Modified IP.

First, we would like to clarify that the standard of review for Coastal Commission certification of a local government IP is that the document is consistent with, and adequate to carry out, the provisions of a local government’s LUP. Consistency with the Coastal Act is not the standard of review for an IP. As the City's staff report confirms, several of the City’s existing zoning districts allow for uses and standards that are inconsistent with the land use designations and coastal resource protection policies found in both the City’s existing certified 1989 LUP and the updated Planning Commission recommended LUP. Specifically, the Original IP includes uses that are inconsistent with the Visitor Accommodation, Visitor Commercial, Open Space Institutional, and Open Space Recreational land use designations. Moreover, the City’s O and U zoning districts do not include any development standards and therefore are inadequate to carry out the policies of the LUP. Because of these inconsistencies, our office has long identified that the zoning districts would need to be significantly modified, and some completely rewritten, to achieve consistency with the LUP as required by Coastal Act Section 30513.

In addition, through subsequent discussions with City staff, including with legal counsel, together we identified that the existence of voter initiative restrictions within certain districts of the City’s existing zoning code pose an additional, significant obstacle that limits the City’s ability to modify the Original IP. Specifically, our understanding is that modifications to the zoning districts within the Original IP would require voter approval and thus, if voters do not approve of the needed modifications, the LCP could not be certified and the Commission would retain jurisdiction over all CDPs within the City’s Coastal Zone until such time that the voters approve the needed zoning district modifications. In other words, under the Original IP, the Coastal Commission would become tethered to the City’s local voter initiative process, raising a series of procedural issues both now and

1 Conformity with the Coastal Act is the standard of review for an LUP.
in the future, including in future LCP amendments where the Commission would have to review and approve all local voter initiatives regarding the zoning code.

Clearly, the Original IP’s reliance on the City’s existing zoning code engendered significant policy and regulatory issues. Together with City staff, we identified a preferred course of action to address all of these issues: the zoning districts could be kept out of the LCP context and could be replaced with Community Design standards that utilize the existing Land Use Designations rather than zoning districts. City staff identified Community Design standards as the preferred option and the Modified IP is the result of our collaborative effort.

As we have previously explained, the City’s existing zoning districts and voter initiative provisions will continue to be an integral part of the City’s Municipal Code and City permit process. Although many jurisdictions do have zoning districts within their IP, zoning districts are not a Coastal Act requirement and are not universally included in an IP. Pacific Grove’s existing zoning districts may be necessary to implement other state laws and local concerns, but are not designed to address coastal resource protection standards and pose unique challenges toward Commission certification of the City’s LCP. We continue to be open to further edits to the Modified IP and welcome discussions on specific policies and standards. However, both City staff and our staff agree that the current zoning districts are inconsistent with the LUP land use designations and the best path toward certification is to keep the existing zoning districts outside of the LCP context. Again, we strongly urge you to support the staff recommendation and utilize the Modified IP.

We deeply appreciate and commend the effort that the City and the public have put into the LCP update process. We will continue to work with you and address concerns in order to reach our shared goal of a fully certified LCP. Thank you for considering our comments.

Sincerely,

Brian O’Neill
Coastal Planner