CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Chair Sawyer and Members of the Historic Resources Committee

FROM: Alyson Hunter, Senior Planner

MEETING DATE: February 26, 2020

SUBJECT: Coastal Development Permit Process Review

CEQA: Not a "Project" per § 15378 of the California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION
Receive as information only.

DISCUSSION
The City-adopted Local Coastal Program (LCP) is on-track to be certified by the Coastal Commission at its March meeting. Immediately thereafter, the Planning Commission will become the review authority for Coastal Development Permits (CDPs). The Planning Commission will also be the final review authority on Architectural Permits (AP) when a CDP is included; the Historic Resources Committee (HRC) and the Architectural Review Board (ARB) will provide a recommendation similar to the current process involving a combined AP and Use Permit.

To assist the various review authorities, potential applicants, and the general public, staff has prepared a Frequently Asked Questions (FAQ) handout (attached) that addresses a variety of questions, procedures, and processes including the basics: *What is a CDP*? *What is ESHA? What role does the Coastal Commission play post-certification?*

Like all discretionary permits that the HRC reviews, there are special findings that will need to be made and an appeal process to be followed, among other procedural steps that are described further in the Implementation Plan of the LCP.

In summary, the addition of a CDP to the City's existing entitlement process will not result in the reinvention of the wheel - we have the necessary administrative protocols in place to undertake the permitting process and assert local authority.

CITY COUNCIL GOAL ALIGNMENT
Goal 3. City Asset Stewardship: Adopt a certified Local Coastal Program

ATTACHMENTS
1. CDP Frequently Asked Questions (FAQ) Handout

RESPECTFULLY SUBMITTED,

Alyson Hunter
Alyson Hunter, Senior Planner, Community Development Department

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Coastal Development Permit (CDP) FAQ

Frequently Used Acronyms

LCP: Local Coastal Program **LUP**: Land Use Plan [component of the LCP]

IP: Implementation Plan (development standards, design guidelines, and other implementing actions)

ESHA: Environmentally Sensitive Habitat Area

The **Local Coastal Program,** inclusive of the LUP and the IP, are located on the City's website:

https://www.cityofpacificgrove.org/living/community-development/planning

For more information on the City's CDP authority and application requirements, please contact the Community Development Department at Pacific Grove City Hall, 300 Forest Avenue | 831-648-3183

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1. What is a CDP?
A CDP is a discretionary permit for development within the Coastal Zone. Development is broadly defined by the Coastal Act (PRC § 30106) as follows:

"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, but not limited to, subdivision pursuant to the Subdivision Map Act, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of 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, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan.

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

As indicated in the City's adopted Local Coastal Program (LCP), the Planning Commission is the review authority for CDPs.

2. Are there exemptions to CDP requirements?
Pursuant to Coastal Act § 30610 and Title 14 of the California Code of Regulations (CCR) and the City's LCP, the following projects are exempt from the requirements to obtain a CDP:

A. Interior improvements to existing single-family residences that do not result in an intensification or expansion of use (ex. lowering existing kitchen or bathroom counter to accommodate a wheelchair does not require a CDP, etc.);
B. Improvements to other existing structures;

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C. Repair or maintenance activities (ex. the *in-kind* replacement of existing horizontal wood siding for new siding that matches the old in size, finish, and reveal does not require a CDP, etc.) ;
D. Replacement of destroyed structures (in compliance with § 23.90.040.D and, within the Asilomar Dunes Residential Area, § 23.90.180.4.l, of the LCP); and
E. Temporary events.

There are a variety of ***exceptions*** to these exemptions which apply to projects within Environmentally Sensitive Habitat Areas (ESHA) like the Asilomar Dunes Residential Area, projects that occur within a specified distance from an ESHA, certain public works projects, etc.

In accordance to § 23.90.040 of the IP, staff will make a determination at the time of application submittal as to whether or not the project is exempt from a CDP.

3. Do Building Permits Trigger a CDP?
Building Permits for work that is considered "Development", as defined in 1) above, will trigger a CDP, unless the activity is found to be exempt per 2) above. As with all building permits for new construction or exterior changes to existing buildings, the Building Department will circulate plans to the Planning Department for consistency with zoning. Generally, no Planning permits are required for re-roofing, plumbing and electrical upgrades, minor interior tenant improvements and other minor improvements that do not effect major structural components as defined in § 1.10 of the Land Use Plan (LUP).

4. What is a CDP Waiver?
If a project is not exempt from CDP requirements and a complete CDP application has been submitted, the City's Community Development Director (Director) or designee will review the application to see if the issuance of a *De Minimis Waiver* (waiver) is warranted. The procedures for the issuance of waivers can be found in § 23.90.045 of the LCP's Implementation Plan (IP). Waivers require public notice, concurrence of applicability by the Executive Director of the Coastal Commission, and review and concurrence by the Planning Commission. The same application materials, including fees, are required for the waiver as for a full CDP.

5. What and Where is the Appeal Jurisdiction?
The City's LCP includes an appeal area map prepared for the City by the Coastal Commission that geographically indicates the automatic appeal jurisdiction. Within this area, the Coastal Commission retains the right to appeal any CDP authorized by the City. Other appeal areas include, but may not be limited to:

A. Projects located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
B. Projects located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
C. Projects in a sensitive coastal resource area (i.e., in the Asilomar Dunes Residential Area or the Asilomar Conference Grounds).

Any aggrieved individual may appeal a CDP to the City Council and to the Coastal Commission once all local administrative remedies have been exhausted. The City's CDP and CDP appeal fees are indicated on the most recent adopted Fee Schedule. The appeal regulations are further described in § 23.90.100 of the IP.

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6. Is there a map of the Environmentally Sensitive Habitat Areas (ESHA) in the City?
No, but the *Land Habitat Sensitivity Map* (Fig. 5 in the LCP) shows areas of special biological significance and should be used by a developer's professional biologist and/or botanist in the preparation of project-specific reports to identify and properly protect ESHA resources. Sensitive resources can be found anyway in the City and it is incumbent on the development review process, on a case-by-case basis, to identify and protect them wherever they are located.

7. Are there Special CDP Findings?
Yes. In most cases, a CDP will be required in addition to the standard Architectural Permit, Use Permit, Subdivision or other local discretionary permit and will be processed concurrently as part of a consolidated permit package. All permit types have individual findings that must be made in order for the review authority - the Planning Commission in those cases where a CDP is required - to be able to approve the project. The following findings must be made in order to approve a CDP:

A. LCP Consistency. The project is consistent with the LCP.

B. Public Views. The project protects or enhances public views.

C. Habitat Protection. The project protects vegetation, natural habitats and natural resources consistent with LCP.

D. Design Consistency. The design, location, size, and operating characteristics of the proposed development is consistent with applicable LCP design requirements, including design plans and area plans incorporated into the LCP.

E. Coastal Access. The project protects or enhances public access to and along the coast.

F. Visitor Serving. The project supports the LCP goal of providing for visitor-serving needs as appropriate, including providing low and no cost visitor and recreational facilities.

G. Appropriate Use. The project is consistent with the allowed LCP uses associated with the property.

H. Coastal Resources. The proposed development protects or enhances coastal resources, where applicable.

8. What is the Coastal Commission's permitting role once the Local Coastal Program is certified?
After a Local Coastal Program is certified, the Commission's coastal permitting authority is transferred to the City. The City interprets the Local Coastal Program and applies the LCP's standards and regulations as required. The Commission retains permanent coastal permit jurisdiction over development proposed on tidelands, submerged lands, and public trust lands. The Coastal Commission is the appeal body for certain CDPs and reviews and approves any amendments to previously certified Local Coastal Programs.