

CALIFORNIA COASTAL COMMISSION

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**COASTAL COMMISSIONER APPEAL FORM**

Appeal of a Local Government Coastal Development Permit Action

1. Filing information

Appeal number: A-3-PGR-22-0004
Date appeal filed: January 29, 2022
District: Central Coast District
Commissioner: Caryl Hart
Commissioner: Linda Escalante

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CENTRAL COAST AREA**2. Local CDP decision being appealed**

Local government: City of Pacific Grove
CDP application number: 19-0363
CDP decision: Approval with Conditions
Date of CDP decision: January 12, 2022
Project location: 109/125 Ocean View Blvd & 124 Central Ave, Pacific Grove, CA 93950
Project description: Partially demolish existing commercial buildings, remove on-site trees, and redevelop the site for a 225-room hotel with associated hotel amenities including the sale of alcoholic beverages, 10,968 square feet of retail commercial space, on-site valet parking for 255 cars, and an additional 35 self-service, metered parking spaces reserved for public use. The project will use 353,489 square feet of a 5.597-acres project site.

3. Applicant information

Applicant: Foursome Development; CCS Pacific Grove Manager

Applicant address: 555 Abrego St., Monterey, CA 93940

Applicant phone number: (831) 649-6690

Applicant email address: N/A

4. Grounds for this appeal

See attached statement.

5. Commissioner appellant certification

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Commissioner name: Linda Escalante

Commissioner signature:  CF7DAD58908E480...

Date of signature: 01/29/2022

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6. Commissioner appellant certification

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Commissioner name: Caryl Hart

Commissioner signature:  TEEZDCAAA0894D7...

Date of signature: 01/28/2022

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Grounds for Appeal: City of Pacific Grove CDP 19-0363 (American Tin Cannery Hotel Project)

On January 12, 2022, the City of Pacific Grove City Council, overturning the City Planning Commission's denial, approved a coastal development permit (CDP) for redevelopment of the roughly 6-acre American Tin Cannery (ATC) site into a new 225-room hotel with related development (e.g., two pools, two spas, restaurants, banquet/meeting rooms, underground and surface parking (some 290 parking spaces), approximately 11,000 square feet of retail uses, etc.) including over 350,000 square feet of total floor area and vacation/private use of currently public rights-of-way (along Sloat Avenue and Ocean View Boulevard). The City's approval raises questions of consistency with the City of Pacific Grove Local Coastal Program (LCP) provisions related to water supply, lower-cost visitor accommodations, public access and amenities, and public views/community character, as follows.

With respect to water supply, the LCP only allows development such as this to be approved if it is clearly demonstrated that such development will be served by an adequate and sustainable long-term water supply (see, for example, LUP Policy INF-2). In this case, the City approved the project by finding that its estimated water demand would be less than the water allocations/credits assigned to the site by the Monterey Peninsula Water Management District (MPWMD) pursuant to MPWMD protocols. However, there are numerous issues with such a determination, including at a fundamental level because such analysis is not rooted in an LCP evaluation regarding coastal resource protection. In fact, while the City's evaluation was based on an analysis of estimated water allocations/credits from over 30 years ago, LCP water supply tests are focused on ensuring that development in the City's coastal zone protects coastal resources, including by requiring such development to be served by an adequate and sustainable long-term water supply. Sustainable potable water sources are increasingly precious and limited resources in the State, and it is no different in Pacific Grove. In fact, the project is located in an area where existing community-serving water extractions already have led to severe adverse impacts on significant coastal resources, including the Carmel River and its related habitats as well as seawater intrusion in over-tapped aquifers in the Seaside groundwater basin, each with corresponding deleterious effects. The above-mentioned LCP provisions recognize and address these issues; issues that have led the State Water Resources Control Board and the California Public Utilities Commission to issue a cease-and-desist order and moratorium (respectively) that prohibit water service to new or intensified development on the Monterey peninsula (including in Pacific Grove). And here, the project is not a single-family home or other smaller water user; rather it is estimated that it will require over 17 acre-feet per year.¹ Given these water supply and coastal resource issues and requirements, it is not clear that the project can be found consistent with the LCP on these points, and the City's analysis did not appear to be sufficient to be able to demonstrate such required consistency.

In regard to lower-cost visitor accommodations, the LCP requires that lower-cost visitor accommodations be provided and encouraged, including that new hotels such as this

¹ And this estimate presumes certain things in arriving at this conclusion (e.g., water use associated with laundry is not counted because laundry would be addressed offsite), and this estimate alone raises LCP questions.

Grounds for Appeal: City of Pacific Grove CDP 19-0363 (American Tin Cannery Hotel Project)

are required to provide lower-cost units in an amount equal to at least 25% of the number of higher-cost units (see, for example, LUP Policy PRA-11 and IP Section 23.90.220(c)). In this case, the Applicant's lower-cost analysis identifies all 225 hotel units as higher-cost, meaning that the LCP would require at least 56.25 of these units to be lower-cost units. To address this LCP requirement, the City's approval requires 56 rooms to be available at lower-cost rates as part of a "heroes" program targeted to individuals that work in certain professions such as health care workers and firefighters, and the remaining 0.25 lower-cost unit requirement would be paid via an in-lieu fee to the City. While an interesting approach, the approval raises a series of questions regarding LCP consistency, including that "heroes" rates and eligibility are not specified in the CDP but rather would be worked out at a later date, the units are not targeted to the general public (which is the actual LCP objective), and mitigation fee methodologies appear to significantly underestimate the amount of required mitigation fees. In short, it is not clear from the City's analysis that the project can be found consistent with the LCP's lower-cost visitor accommodation requirements.

With respect to public views and community character, the LCP is fiercely protective of public views and protects the visual qualities of coastal areas as a resource of public importance, including by ensuring that development is compatible with its built and natural environment surroundings, and that it does not adversely affect public views otherwise (see, for example, LUP Policies SCE-1 through SCE-5). It also specifies that protection of scenic resources and other coastal resources must be the priority in all City actions and decisions, and that all development standards (including with respect to height, setback, density, lot coverage, etc.) are required to be interpreted as maximums (or minimums) that are required to be reduced (or increased) so as to protect and enhance such resources to the maximum extent feasible (LUP Policy LUD-1). In terms of compatibility with its surroundings, the project would dwarf everything nearby by a large measure, and would appear to oversubscribe the site with development that does not appear to maintain community character and compatibility. In fact, existing development near the site (other than the Monterey Bay Aquarium) is generally limited to a mix of at-grade parking lot, single-story, and a couple two-story structures with which it would be hard to find the project compatible as proposed. In fact, even when compared to very large existing structures nearby, it is significantly larger. For example, the nearby Monterey Bay Aquarium occupies approximately 2.5 acres and is some 30 feet height, just next to it the InterContinental Hotel occupies about 1 acre and is 46 feet in height, and just upcoast the Monterey Plaza Hotel occupies some 2 acres at 47 feet in height. These are the largest structures in the area, and the project would be about the size of all three combined. The approved development appears to oversubscribe the site in relation to its mass, size, and scale, where this issue is exacerbated at this critical 'gateway' site into the City, and it is not clear that it can be found LCP consistent in terms of public views and community compatibility.²

² And, in fact, the City identified such visual inconsistencies as a significant and unavoidable effect under CEQA, requiring the City to adopt a statement of overriding considerations on this point (and others, namely regarding the degree to which the project will impact historic resources).

Grounds for Appeal: City of Pacific Grove CDP 19-0363 (American Tin Cannery Hotel Project)

Finally, the LCP only allows the coverage approved by the City (i.e., up to 90% coverage) for projects that provide public amenities over and above what the LCP would require for other reasons (see, for example, IP Section 23.90.180(c)(4)(G)(i)). While the project does include some public amenities, including access to a roof garden, interpretive signage, and a restroom, these appear to be more geared towards hotel guests than being reserved for public benefit, and it is not clear that the required LCP finding can be made here. In addition, the project includes elements that will actually reduce public access and amenities, including in terms of allowing private use of the Sloat Avenue right-of-way and a portion of the Ocean View Boulevard right-of-way. These approved project attributes actually reduce public access and amenities, may run afoul of previous Commission CDPs regarding public street parking in this area, and the project includes no discernable mitigation for this loss of public access. As with other issues described above, the City's analysis did not appear to be sufficient to be able to demonstrate LCP consistency on these points.

In conclusion, for the reasons cited above, the City's approval raises significant questions regarding LCP compliance with respect to water supply, lower-cost visitor accommodations, public access and amenities, and public views/community character, thereby warranting Commission consideration of the City's CDP approval for the project.

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