

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR ^{BAB}
GREG RAY, PUBLIC WORKS DIRECTOR/CITY ENGINEER

SUBJECT: GROVER BEACH LODGE & CONFERENCE CENTER - DEVELOPMENT PERMIT APPLICATION 10-03 (APPLICANT: PACIFICA COMPANIES)

BACKGROUND

On December 2, 2013, the City Council conducted a public hearing and adopted a resolution approving the Coastal Development Permit and Site and Architectural Plans for the Grover Beach Lodge and Conference Center (reference Attachment 2, City Council Staff Report dated December 2, 2013). This culminated a public review process that included seven public hearings before the Planning Commission, City Council and California Coastal Commission spanning three and one-half years. On December 30, 2013, the City Council directed staff to reconsider the Grover Beach Lodge project based on a potential procedural issue related to filing the Local Notice of Final Action.

Subsequently, Coastal Commission staff has received two appeals on the project. The first appeal was filed by Friends of Oceano Dunes (reference Attachment 3) which contends several inconsistencies with the Coastal Act and the City's certified Local Coastal Program (LCP). The second appeal was filed by two Coastal Commissioners and is limited to the concern that a condition of approval should be added to assure compliance with the LCP shoreline armoring policy (reference Attachment 4).

On January 21, 2014 the City Council opened the public hearing and continued the item to the February 18, 2014 Council meeting. The item was subsequently continued to the March 3, 2014 Council meeting and then the March 17, 2014 Council meeting. The purpose of the continuations was to allow additional time for the Joint Authority (State Parks and the City of Grover Beach) to address the issue regarding shoreline armoring raised in the Coastal Commission's appeal. In the last week there have been meetings and discussions between State Parks' legal counsel and Coastal Commission's legal counsel. As a result, staff is cautiously optimistic that an agreement could be forthcoming on a condition of approval that would satisfy the LCP shoreline armoring policy.

Staff has removed the previous draft conditions of approval CDD-18 and CDD-19 from the resolution and will provide an updated condition to the Council at the meeting if there has been agreement between State Parks and the Coastal Commission.

APPROVED FOR FORWARDING



ROBERT PERRAULT
CITY MANAGER

Please Review for the Possibility of a Potential Conflict of Interest:

- | | |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright |
| <input type="checkbox"/> Peterson | <input type="checkbox"/> Marshall |
| <input type="checkbox"/> Lee | <input type="checkbox"/> Nicolls |

Meeting Date: March 17, 2014

Agenda Item No. 2

Therefore, it is requested that the City Council conduct a public hearing to reconsider its previous approval of the Coastal Development Permit and Site and Architectural Plans for the Grover Beach Lodge and Conference Center. At the meeting, staff will provide an update and distribute draft conditions of approval if an agreement has been reached.

DISCUSSION

A few hours prior to the December 2, 2013 Council meeting, Coastal Commission staff contacted City staff indicating potential concerns regarding compliance with the Local Coastal Program (LCP) Policy 5.7.F.b. which was added as part of the LCP Amendment approved by the Coastal Commission in June 2013 as follows:

Armoring (including but not limited to seawalls, revetments, retaining walls, etc.) and similar responses to coastal hazards intended to protect development in the area west of Highway 1 (as shown on Figure 3) from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) shall be prohibited. All development in such area shall be conditioned to require that property owners expressly waive any future right to construct such armoring or similar hazard responses that may exist pursuant to Public Resources Code Section 30235 and the City of Grover Beach certified LCP. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that ensures that no such armoring or similar hazard responses shall be proposed or constructed to protect the development, and which includes their waiver, on behalf of themselves and any successors or assigns, of a future right to such armoring.

In addition, as a condition of approval of any development in the area west of Highway 1 (as shown on Figure 3) the property owner shall be required to acknowledge and assume all risks from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) associated with development at this location, waive any claims of damage or liability against the permitting agency, and agree to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that explicitly assumes these risks, on behalf of themselves and any successors or assigns.

The policy requires private property owners to record deed restrictions against their property prohibiting armoring and assuming risks caused by coastal hazards. However, in this case State Parks, the property owner, is not a private property owner; therefore, there was some doubt as to whether the policy was applicable. Since there was no ability for City staff, State Parks staff, or the applicant to discuss the potential issue and/or its applicability to the project, the issue was not discussed at the December 2, 2013 Council meeting.

Subsequent to the December 2, 2013 Council meeting, the Joint Authority, consisting of State Parks and City representatives, met to discuss whether there was a need to clarify consistency with the LCP policy on armoring since the findings in the resolution approving the project indicated that the project is consistent with the applicable policies of the LCP. The Joint Authority decided to write a letter to Coastal Commission staff indicating why the Joint Authority believed the project was consistent with the policy and file the Local Notice of Final Action,

which starts the 10 working day appeal period the day after the Notice is received. Consequently, the appeal period began on December 24, 2013 and ended on January 8, 2014.

On December 23, 2013, the City received a letter from an attorney representing Friends of Oceano Dunes claiming that the City had not filed the Local Notice of Final Action within the seven working days following the project approval. As discussed above, the reason for the delay was to allow time for the Joint Authority to discuss the issue raised by Coastal Commission staff and also allow State Parks to discuss the issue with its legal counsel. Upon review of the letter from Friends of Oceano Dunes, both the City Attorney and Coastal Commission legal counsel opined that the late filing was not an issue and that any procedural issue related to a delay in filing the notice was cured upon filing the Notice. However, based on the claims raised by Friends of Oceano Dunes on this procedural issue, the City Council determined it would reconsider the project to deter any potential litigation against the City.

Therefore, the purpose of the public hearing to reconsider the project is to cure any perceived procedural issue related to filing the Local Notice of Final Action raised by Friends of Oceano Dunes. However, since the Council elected to reconsider the project, there have been two appeals of the project submitted to Coastal Commission staff. The first appeal was filed by Friends of Oceano Dunes, which contends that the project is inconsistent with the Coastal Act and the City's certified Local Coastal Program related to public access and relocation of the sewer dump station (reference Attachment 3). The second appeal was filed by two Coastal Commissioners and is limited to the concern that a condition of approval should be added to assure compliance with the LCP policy that prohibits future shoreline armoring and assuming risks from coastal hazards (reference Attachment 4).

As part of the public hearing to reconsider the approval of the project, the Council may discuss any aspect of the project. The purpose of the project reconsideration was not intended to be a review of the two project appeals; however, staff is providing a summary of the issues raised and previous information and analysis related to the issues.

Coastal Commission Appeal

The Coastal Commission's appeal is limited to their concern that the project approval should include a condition of approval incorporating the shoreline armoring requirements contained in LCP Policy 5.7.F.b. Since the policy is focused on the property owner waiving its rights, State Parks had its legal counsel review the issue raised in the Coastal Commission appeal. As previously mentioned, there have been directed discussions between State Parks' and Coastal Commission's legal counsels in the last week. Although no draft conditions have been finalized as of the publishing of this staff report, staff is cautiously optimistic that an agreement could be forthcoming on a condition of approval that would satisfy the LCP shoreline armoring policy.

Staff has removed the previous draft conditions of approval CDD-18 and CDD-19 from the resolution and will provide an update to the Council at the meeting if there has been agreement between State Parks and the Coastal Commission.

Friends of Oceano Dunes Appeal

The Friends of Oceano Dunes appeal cites four reasons for its appeal. The first two issues are related to maximizing public access to and along the coast and that the proposed project would obstruct access to the dunes, beach and shoreline caused by increased traffic.

The Final EIR analyzed the potential traffic impacts of the proposed project. In regards to accessing the beach, the Final EIR evaluated the intersection of Highway 1 and West Grand

Avenue and concluded that Level of Service (LOS) C would be maintained in the cumulative plus project scenario as shown in the table below.

Level of Service for the Signalized Intersection - Highway 1 and West Grand Avenue

Condition	AM Peak Hour		PM Peak Hour		Saturday Peak Hour	
	Delay*	LOS	Delay*	LOS	Delay*	LOS
Existing	13.3	B	18.8	B	19.0	B
Existing Plus Project	13.8	B	15.2	B	19.5	B
Cumulative (Build-out)	14.5	B	19.4	B	27.9	C
Cumulative Plus Project	14.6	B	20.4	C	31.0	C

* Delay in seconds

The Level of Service (LOS) C is the City's targeted LOS and is not considered an adverse impact based on the California Environmental Quality Act (CEQA) thresholds. The net increase in delay at the intersection in the cumulative (build-out) condition as a result of the project at the Saturday peak hour is an average of 3.1 seconds (31.0 - 27.9 seconds).

The third issue raised by Friends of Oceano Dunes indicated concerns regarding the relocation of the sewer dump station. The current recreational vehicle (RV) sewer dump station located on the project site would be relocated off-site as part of the proposed project improvements, which is consistent with the State's General Plan Amendment in 1982 and the Concession Contract between the Joint Authority and Pacifica Companies. As a result, the Joint Authority evaluated several locations within Pismo State Beach and other publicly and privately owned locations, several of which were evaluated in the Final EIR. However, most sites on State Parks owned property were infeasible based on environmental constraints.

The Joint Authority determined that the most appropriate and easily accessible site in the vicinity would be to expand the existing RV sewer dump station located in the North Beach Campground, approximately a half mile north of the current location. State Parks also believed that it would be best to have the dump station on State Parks property since it is an amenity solely for overnight campers staying in the State Park and not open to the general public. State Parks also prefers a location that they can control the operations and monitor its use to help prevent illegal discharges into the sewer system.

The Final EIR for the project analyzed the access to the proposed relocation to North Beach Campground and determined that adequate access would exist as follows:

As noted in the project description, the proposed project would relocate the existing on-site dump station to the North Beach Campground in the City of Pismo Beach. The current RV sewer dump station will be expanded to accommodate the added demand from the existing RV sewer dump station located on the project site that would be removed by the proposed Lodge and conference center.

Traffic counts at the existing RV sewer dump station were taken by the State Parks from August 5, 2010 through September 12, 2010, including numerous weekend days including Labor Day weekend. Counts were taken during mid-day peaks and afternoon peaks. The highest reported average number of dump station users in the traffic count period was found to be 9.5 trailers and RVs per hour between 1:30 and 3:30 PM on Sunday, September 12, 2010. On Labor Day weekend, the peak number of users was found to be 6 trailers and RVs per hour between 1:30 and 3:30 PM on Monday, September 6, 2010.

This traffic would be rerouted to the North Beach Campground and would use the entrance off of Highway 1. This entrance features about 600 feet of storage for northbound left turns into the park entrance which is sufficient for 20 25-foot RVs including 5 feet between each vehicle. This storage will be more than enough to handle the current RV and trailer users and the displaced users from the Grover Beach state park area.

In addition, City staff met with the City of Pismo Beach staff who indicated that their wastewater treatment plant has the capacity for the additional effluent. The Joint Authority is proceeding with preparing a Coastal Development Permit application for submission to the City of Pismo Beach for approval of the expansion of the existing sewer dump station. However, this does not preclude the Joint Authority from considering other viable locations for the sewer dump station if presented to the Joint Authority.

Friends of Oceano Dunes also claim that development of the proposed project, which eliminates the use of the existing vacant lot by off-highway vehicles and equestrians, would create an adverse impact. However, the use of the site has always been informal and is not explicitly provided for in the Coastal Act, the City's certified Local Coastal Program, the City's or State's General Plan, or any other State or City policy document. It should also be noted that the proposed project has included an area for the parking of over-sized vehicles consisting of approximately 10,500 square feet in the southeast corner of the site.

Conclusion

If the City Council adopts the attached resolution approving the Coastal Development Permit for the Grover Beach Lodge project, which also rescinds the previous resolution of approval, the appeals filed by the Coastal Commission and Friends of Ocean Dunes would become null and void. A new appeal period would begin once the Coastal Commission receives a new Notice of Final Action within the seven-day period. This would also eliminate any potential litigation related to the procedural issue raised by Friends of Oceano Dunes.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Conduct the public hearing and receive testimony; adopt the Resolution approving the Coastal Development Permit and Site and Architectural Plans; or
2. Provide alternative direction to staff.

RECOMMENDED ACTION

It is recommended that the City Council take the following actions:

1. Conduct the public hearing and receive testimony; and
2. Adopt the Resolution approving the Coastal Development Permit and Site and Architectural Plans.

FISCAL IMPACT

The project's fiscal impacts were previously discussed in the City Council staff report dated June 4, 2012 titled "Consideration of a Financing Plan for Public Improvements Associated with the Grover Beach Lodge and Conference Center Master Plan" and Resolution No. 12-33. A copy of the staff report and resolution are available for viewing in the City Manager's Office

during normal business hours

PUBLIC NOTIFICATION

On January 10, 2014, the public hearing notice was published in The Tribune and mailed to all property owners located within 300 feet of the property, all occupants within 100 feet of the property, all residences in Le Sage Mobilehome Park, and posted as required by City code. Additional public hearing notices were also posted in the vicinity of the project site on State Parks property – at parking lot entrances, near the golf course club house, Fin's Seafood Restaurant, and the pedestrian access to the beach. In addition, persons who commented on the Draft EIR or previously submitted letters or emails were sent a notice via mail or email. The agenda was posted in accordance with the Brown Act. On January 21, 2014, the City Council opened the public hearing and continued the item to the meetings on February 18, 2014, March 3, 2014 and March 17, 2014. Notices regarding the continued public hearings were posted at City Hall on January 21, February 19, and March 4, 2014.

Since the end of the public comment period on the Draft EIR until the December 2, 2013 Council meeting, the City has received 38 letters and emails regarding the project. This correspondence has previously been provided to the Council. A summary of the person submitting the correspondence, date, and comment topic is attached (reference Attachment 5). A complete copy of all correspondence is available for viewing in the City Manager's Office during normal business hours. Please note that two letters omitted from the December 2, 2013 staff report have been included in the revised attachment. The letters are from Friends of Oceano Dunes, dated July 15, 2011, and Pamela Krahl, dated July 21, 2011. Since the December 2, 2013 Council meeting, four additional letters have been received, two from Friends of Oceano Dunes (dated March 3, 2014 and January 9, 2014), and one each from Deah Rudd, and Nora and Kitt Jenae (reference Attachment 6).

ATTACHMENTS

1. Draft Resolution No. 14-__ Approving the Coastal Development Permit & Site and Architectural Plans with Exhibits A and B
2. City Council Staff Report Dated December 2, 2013
3. Appeal Filed by Friends of Oceano Dunes
4. Appeal Filed by Coastal Commissioners
5. Summary of Previous Public Comment Correspondence
6. Correspondence Received Since December 2, 2013
7. Project Plans Dated November 20, 2013 (under separate cover)