ORDINANCE NO. 21-016

AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING SECTION 23.90.180 OF THE PACIFIC GROVE MUNICIPAL
CODE CLARIFYING THE REGULATIONS PERTAINING TO HEIGHT AND
SITE COVERAGE AT THE AMERICAN TIN CANNERY (ATC) SITE

WHEREAS, a Local Coastal Program (LCP) is comprised of a certified Land Use
Plan (LUP) and Implementation Plan (IP), which are the implementing ordinances; and

WHEREAS, on November 28, 2018, the City Council adopted an updated LCP
and authorized its submission to the California Coastal Commission (CCC) for
certification; and

WHEREAS, the CCC held public hearings on July 11, 2019, and September 11,
2019, and adopted an LCP with suggested modifications to both the LUP and IP on
November 15, 2019. The modified LCP conforms to the Coastal Act requirements; and

WHEREAS, on January 15, 2020, the City Council acknowledged receipt of the
CCC resolution of certification, including modifications, and accepted and agreed to the
suggested modifications and adopted the LCP via Resolution No. 20-001; and

WHEREAS, on March 11, 2020, the CCC accepted the City Council Resolution
No. 20-001 and certified the LCP; and

WHEREAS, the LCP is final, adopted, and certified and took effect on the
certification date of March 11, 2020; and

WHEREAS, the City of Pacific Grove (City) has subsequently reviewed and
issued several Coastal Development Permits (CDP) and CDP Exemptions utilizing these
certified regulations; and

WHEREAS, in the current Local Coastal Program, the American Tin Cannery
(ATC) site, which consists of three (3) Assessor Parcel Nos. (APNs 006-231-001, 006-
234-004, and -005) and the portion of Sloat Avenue between Eardley Avenue and Dewey
Avenue (C-V-ATC zoning district), is inconsistent with the LUP Policy LUD-2 description
and Pacific Grove Municipal Code (PGMC) Section 23.90.180(c)(4)(G). This has created
confusion in the application of the correct regulations; and

WHEREAS, CCC staff has recommended to the City that it address this lack of
clarity and inconsistency through the legislative amendment process in PGMC Section
23.84; and

WHEREAS, the City Council is mindful that PGMC Section 23.04.020 (e) (Effect
of Changes to Zoning Regulations on Projects in Progress) provides “A community
development permit application that has been accepted by the department as complete prior
to the effective date of these regulations or any amendment shall be processed according to
the requirements in effect when the application was accepted as complete.” Nonetheless, the clarification caused by this ordinance shall not be deemed to effect a change or amend any regulation as contemplated by Section 23.04.020 (e) and shall instead be deemed to clarify pre-existing regulatory requirements; and

WHEREAS, the proposed amendment will bring this section of the IP into compliance with Policy LUD-2 of the LCP’s LUP, which specifically identifies the three (3) parcels and a portion of the Sloat Avenue between Eardley Avenue and Dewey Avenue to which the regulations apply; and

WHEREAS, notice of a public hearing before the Planning Commission was published in the Monterey County Weekly on March 25, 2021, and posted at City Hall on March 26, 2021, and a notice of a public hearing before the City Council was published in the Monterey County Weekly on April 29, 2021, and posted at City Hall on May 14, 2021; and

WHEREAS, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.; and

WHEREAS, amendment of the PGMC to modify Section 23.90.180 pertaining to the IP is Statutorily exempt from review under the California Environmental Quality Act (CEQA) per Section 15265(a)(1) of the CEQA Guidelines as CEQA does not apply to activities and approvals pursuant to the Coastal Act, Public Resources Code 30000 et seq.; and Categorical Exemptions 15304 for Minor Alterations to Land.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The City Council makes the following findings required for Legislative Amendments per PGMC § 23.84:

(1) The proposed amendment is internally consistent with all other provisions of the general plan;

(2) The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the city; and

(3) The site is physically suitable (including access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested and anticipated land uses.

SECTION 3. The Pacific Grove Municipal Code is amended as follows:
Chapter 23.90.180

23.90.180 Coastal Community Design

(c) Design standards for each Land Use Designation are contained in the section below.

... (4) Visitor-Serving, Visitor-Accommodation and Sunset Service Commercial Design Standards. In addition to all other applicable LCP policies, the following design standards for development within the visitor-serving, visitor-accommodation and sunset service commercial LUP land use designations shall apply:

(A) Coverage. Building and other site coverages shall be limited to the degree necessary to maintain public views, maintain adequate open space to preserve small-scale visual landscapes, maintain water quality (including by limiting impervious surfaces), and maintain community character, including through requirements for compact design, pervious materials, and maximized landscaping and open space. In no case shall site coverage exceed 90 percent of total lot area. To the extent possible, any space remaining uncovered should be accumulated to maximize positive visual impacts and usability.

(B) Heights and Articulation. Building and other structure heights shall be limited to the degree necessary to maintain public views, maintain pedestrian scale, and maintain community character. In no case shall building and other structures exceed 40 feet as measured from existing grade, and all such heights shall be reduced as necessary to ensure to the maximum extent feasible that existing blue water views from public vantage points are predominantly maintained. For new development that fronts on and/or is visible from Ocean View Boulevard or the Ocean View Boulevard Recreational Trail, story stepbacks and building articulation shall be required to ensure that buildings and other structures do not dominate blue water ocean views, do not dominate over the public space, and do not appear as large flat planes.

(C) Off-Street Parking. Off-street parking spaces for new development shall be required in the number necessary to ensure that both customer and employee parking needs are provided on site and do not conflict with public coastal access parking needs. Factors to consider when determining off-street parking requirements include the size of the lot, proximity to the shoreline, and adequacy of public parking opportunities for public coastal access in the vicinity.

(D) Setbacks. Setbacks from streets and property lines shall be applied in a manner designed to maintain public views, maintain adequate open space to preserve small-scale visual landscapes and pedestrian scale, and maintain community character. Where not occupied by structures, landscaping shall be placed in the front eight feet of the project site. Adjacent to residential uses, 10-foot setbacks shall be implemented.
(E) Public Access. New development shall ensure that existing public accessways are retained and enhanced with appropriate public access signage and amenities.

(F) Other. All new development shall be sited and designed to maintain public views and community character, including through quality design, architectural articulation (including varied offsets and projections), and quality exterior materials and landscaping that respect and emphasize the natural setting and surrounding built environment.

(G) American Tin Cannery Site. In addition to the standards in subsections (E)(4)(A) through (F) above, the following additional design standards apply to new development at the American Tin Cannery site comprised of Assessor's Parcel Numbers 006-231-001, 006-234-004, 006-234-005, and the portion of Sloat Avenue between Earlday Avenue and Dewey Avenue (C-V-ATC zoning district) located seaward of Sloat Avenue between Earlday Avenue and Dewey Avenue:

i. Coverage. Site coverage may only be allowed up to 90 percent of the total site area if the project includes consistent public amenities that enhance public access (e.g., restrooms, bicycle racks, seating areas, sidewalk and roadway access improvements on- and off-site, etc.) beyond that which is required by the LCP for compliance with other requirements. Otherwise, site coverage may be decreased if substantial public coastal access amenities are not incorporated into the project.

ii. Minor exceptions to height limits may be allowed for mechanical appurtenances up to an additional eight (8) feet provided that no public views are significantly impacted and the equipment is appropriately screened.

SECTION 4. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement this Ordinance including, but not limited to, preparing the requisite LCP amendment materials for submittal to the California Coastal Commission.

SECTION 5. Severability. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 6. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof and following certification by the California Coastal Commission.
PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
THIS 2\textsuperscript{nd} day of June 2021, by the following vote:

AYES: Mayor Peake, Councilmember Amelio, McAdams, Poduri, Smith, and Tomlinson.

NOES: Councilmember Coletti.

ABSENT: None.

APPROVED:

BILL PEAKE, Mayor

6/4/2021

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney