**COUNTY REVISED LOCAL COASTAL PLAN – APPROVED BY THE Planning Commissioners 11/13/19**

At this morning’s meeting, the Planning Commissioner’s voted to approve a revised version of the County’s proposed Local Coast Program, with additional changes and clarifications based on public comments at the meeting, and a motion made by Commissioner Guth. At the beginning of the meeting, David Carlson passed out a new revised version of the LCP (11/13/19) with additional blue lined changes based on input from CPOA and others. The latest LCP version 11/13/19 was passed, with additional changes as outline in Commissioner’s Guth’s motion.

A copy of the 11/13/19 version of the LCP with blue-line changes is attached.

Based on the discussion and motion at the Planning Commissioner’s meeting on 11/13/19, we think the following additional changes were approved. But we will not be certain until we see the final version of the LCP to be presented to Board of Supervisors on 12/10/19. (blue line represents changes submitted in the 11/13/19 LCP version, red line changes represent changes discussed with staff and requested by CPOA).

1. Clarify language that pre-existing permits for shoreline protection (armoring devices) shall not be altered. Recognize these policies do not effect terms of existing permits for shoreline and coastal bluff armoring unless a triggering event occurs such as a proposed development project or work that exceeds the scope of authorized maintenance and repair and that such amoring is subject to requirements for monitoring maintenance and repairs – which also confers an expectation of an reasonable right to such monitoring, maintenance and repair activity.(listed under Guiding Principles of the revised LCP 11/13/19). Only when the property owner applies for a new permit for re-development (replacement of more than 50% of the major structural components) or major repair to the shoreline protection (armoring device), or new armoring device will they be required to submit a new “Monitoring, Maintenance and Repair Plan” for the shoreline protection. Otherwise, property owners will be allowed to maintain and repair their shoreline protection according to the terms of their originally approved coastal permit.

2. Review and modify language on “Hold Harmless, Indemnification, and Release of Liability” to be recorded on the property deeds. **No additional changes were made in the 11/13/19 version of the LCP. Board of Supervisors had requested changes on 10/8/19.** Agreed to modify the language to link the release of liability to the extent that it results in damage/failure of the structure in the coastal hazard zone or results in personal injury to anyone. The release of liability, indemnification and hold harmless clauses will terminate if the structure is removed from the property. Instead we has suggested, “Hold Harmless, Indemnification and Acceptance of Risk” on the property deeds should be limited to potential harm or danger to the public or safety hazards **due to natural erosion of cliffs, bluffs, sea level rise, storm surges or other natural events (resulting from the new development),** for the useful life of the structure(s)”.

3. Explain under what conditions the Sand Mitigation fees would be applied, to which areas of the coastline, and how the fees would be determined. Provide examples, and identify areas such as Pajaro Dune and sections of Beach Drive which will not be subject to Sand Mitigation Fees. Unless amended, the Sand Mitigation methodology applies only to coastal bluffs and does not apply to sand dune environments such as Parajo Dunes. Sand Mitigation fees will only be imposed when the property owner applies for a new permit for re-development, major repair or replacement of armoring device, or a new armoring device. The Planning Department will provide the formula used to calculate the Sand Mitigation Fees. Increased public access to the beaches may be offered in lieu of Sand Mitigation or Recreation Use Fees. In addition, the County will impose a “Recreation Use Fee” with a different methodology than used by the Coastal Commission, when the property owner applies for a new permit for new development, re-development, or new armorment. The “Recreation Use Fees” will be based on the same formula used for private property encroachment on County-owned land. These fees are expected to range from $33,000 - $66,000 for a 50 foot-wide parcel, and will be amortized over 20 years. The Recreation Use fees will be deposited in the County Parks fund for development and enhancement of public beeches and recreational facilities. These fees will be re-evaluated after 20 years. The County will provide a list of approved projects and estimated costs.

4. Identify areas of coastal hazards requiring immediate attention and coastal protection to include Opal Cliffs, Sections of East Cliff Drive, Capitola Bluffs etc. and strive for a uniform protective structure which will protect and enhance public access. Opal Cliffs from 41st Ave to the Capitola City border has been designated as a “Shoreline Protection Exception Area” and is now eligible for modern style armorment (vertical sea walls) and the intent is to build a uniform vertical seawall extension from 41st Ave to the Capitola City border, anchored in the bedrock, with a 3 foot wide pathway about 4 feet above the sea level), with intermittent stairs down to the bedrock and beaches along the base of Opal Cliffs. Existing shoreline protection measures will be replaced by modern vertical structures that mirror the approach of the East Cliff seawall built by the County Redevelopment Agency, which removes riprap and exposes more beach area, incorporates public access, and is designed to resemble natural bluff appearance. However, those few existing seawalls should remain in place for the stability of the bluffs, and interface with the “uniform seawall” when it is built. Only the revetment rocks should be removed. Sections of East Cliff Dr. from the Harbor/7th Ave to Pleasure Point Drive will be first priority for the development of a “Shoreline Management Plan” which will address standards for maintenance, repair and potential replacement of revetment rocks in favor of a more modern and uniform vertical seawall. The plan is to be developed by 2030, and will provide for grant funding to complete a comprehensive Shoreline Management Plan for East Cliff Dr.. Parcels and structures built on the sandy beaches (including Beach Dr., Pot Belly Beach, Las Olas and Pajaro Dunes) will not be subject to any “Sand Mitigation” or “Recreation Use” fees, but new or re-developed structures will be required to be built a minimum of 10’ above sea level. Also an “Encroachment waver and fee” may be required for shoreline protection devices encroach on public recreation beaches or parks. In the event that any such structure in the future is located below the mean high tide level on State Lands and is subject to a State lease, strive to retain local control of any lease revenue.

5. Revise the triggers for allowing coastal armoring devices for emergent protection to within 15 feet of structure. Agreed. Will allow permits for new coastal armoring before it becomes and emergency situation, < 15 feet from base of structure to bluff’s edge. However, permits for new armoring devices will be subject to the all of the requirements of “Hold Harmless, Indemnification, and Release of Liability”, Geologic Hazards Assessment, Sand Mitigation, Recreation Use fees, and Encroachment fees. A conditional waver may be granted to the required 25 foot minimum set back in certain situations.

6. Provide property owners with incentives to replace revetment rocks where feasible with more modern forms of protection such as engineered seawalls with increased public access and sand collection. Sections of East Cliff Dr. from the Harbor/7th Ave to Pleasure Point Drive will be first priority for the development of a “Shoreline Management Plan” which will address standards for maintenance, repair and potential replacement of revetment rocks in favor of a more modern and uniform vertical seawall.

7. Allow the LCP to be revised periodically, as the conditions of Sea Level Rise change, updating triggers, which may be before the 2040 sunset of this LCP. Existing Coastal Permits will not expire by 2040, but will be re-evaluated based on the current sea level rise, coastal erosion and hazards to the public.

It appears that the County has made substantial revisions in the revised LCP to accommodate demands from the Coastal Commission and other interest groups. We have taken a position of “conditional support” for the County’s Proposed Local Coastal Program Public Safety Element, but we will not finalize our position until we see the Final LCP, with corresponding code amendments to be present to the Board of Supervisors.

Sincerely,  
 

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