**COASTAL PROPERTY OWNERS ASSOCIATION OF SANTA CRUZ COUNTY**

**CALL TO ACTION FOR 11/13/19** Santa Cruz County Planning Commissioners meeting on the proposed LCP. Meeting starts at **9 a.m.** on the 5th Floor Board of Supervisor’s Chamber, 701 Ocean Street, Santa Cruz, CA.

Please plan to attend this important meeting, as this may be your **LAST Chance to provide public** input on the County’s Proposed LCP before it is forwarded to the Board of Supervisors for approval on December 10, 2019. Please review the attached 10/8/19 Planning Department Staff Report on suggested alternative changes to the LCP.

A copy of the County’s revised LCP (10/8/19 version) is attached,

and Planning Department Staff Report can be downloaded at: <https://sccounty01.co.santa-cruz.ca.us/planning/plnmeetings/PLNSupMaterial/PC/agendas/2019/20191113/006.pdf>

We met with Kathy Malloy, Planning Director, and David Carlson, Planning Resource Specialist Friday (11/8/19) to review additional changes and clarifications to the revised LCP. They will be preparing an Addendum to the Staff Report for consideration by the Planning Commissioners. Here is a summary of some of the additional changes/ clarifications which they agreed to:

1. Clarify language that pre-existing permits for shoreline protection (armoring devices) shall not be altered. 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. 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.
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. 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” are expected to range from $30,000 - $50,000 for a 50 foot-wide parcel, and will be amortized over 20 years. Until the County develops an appropriate methodology for these “Recreation Use Fees”, permits for new or re-development will be assessed $1,000 per lineal foot of shoreline protection as a “deposit” towards the “Recreation Use fee”. The Recreation Use fees will be deposited in the County Parks fund for development and enhancement of public beeches and recreational facilities. 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. 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 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 assist property owners with the cost of replacing the revetment rocks with a vertical seawall. 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.
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. 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.
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 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.

**Highlights of the 10/8/19 Revised LCP:**

* Existing shoreline protection structures between the Harbor/7th Ave, along East Cliff Drive to Pleasure Point, will be allowed to remain for existing Coastal permits, but will be required to have a “monitoring maintenance & repair plan” to maintain the integrity and stability of the structure, and to prevent encroachment or restriction of public beach access, if they apply for a new permit for new development, re-development, or new armoring device. Pre-existing permitted shoreline protection must be maintained and repaired according to the terms of their initially approved Coastal Permit.
* New permits for shoreline protection may be granted to maintain the East Cliff Dr. transportation corridor and to protect residential structures which are on lots adjacent to those with existing shoreline protection, but will be subject to Geologic Hazzards Assessment, Waver of Liability, Property Owner’s Acceptance of Risk and Indemnification, and possibly the Sand Mitigation & Recreation Use fees.
* The coastal bluffs along Opal Cliffs between 41st Ave and the Capitola City border shall be designated as a “shoreline protection area” and may be eligible for a uniform seawall, formation of a GHAD, but will require the removal of all existing seawalls, and revetment rocks along Opal Cliffs.
* Projects located along the beaches including Beach Drive, Pot Belly Beach, Pajaro Dunes and Las Olas areas must be restricted to maximum permissible “elevation strategies” (10 feet above sea level), as reflected in the Safety Element.
* Structures damaged by coastal hazards will **be allowed to be replaced only once**, if more than 50% of the major structural components are replaced. However, the minimum set-back of 25’ may be required.
* Remodeling projects involving less than 50% of the major structural components, would not be considered “new” and subject to Geologic Hazards Assessment, Waver of Liability, Property Owner’s Acceptance of Risk and Indemnification, and possibly the Sand Mitigation fees.
* New development, according to the California Coastal Commission, is any structure or development which has been newly constructed or substantially altered since the Coastal Act was passed in 1977. However, the County of Santa Cruz is holding to their definition incorporated into the County Building code, that “new” structures would only include new construction, redevelopment (> 50% of the major structures components, or a new development project. The County’s Safety Element promotes an approach that establishes adaptive “check ins” and appropriate “chapters” of mitigation for coastal development projects, based on the actual conditions that will reveal themselves as sea level rises. The County will not consider any structure as “new”, unless it requires a new Coastal Development Permit for re-development, replacement, new structure, or new shoreline protection after January 1, 2020.
* Existing shoreline and coastal bluff armoring is subject to requirements for monitoring, maintenance and repair, which also confers an expectation of an a reasonable right to such monitoring, maintaining and repair activity. Many of the existing shoreline protection devices were installed before or shortly after the Coastal Act, and do not have the requirement for MMRP to be filed with the County or Coastal Commission. Property owners will be allowed to maintain and repair their shoreline protection according to the terms of their originally approved coastal permit. Only when property owner applies for a new Coastal Development Permit for re-development, replacement, new structure, or new shoreline protection after January 1, 2020, will a MMRP be required.
* Recognize that is the intention of the LCP that developments on or along the beaches and coastal lagoons not be protected by new coastal protection structures, unless located within a sand deposition area and/or area that is not subject to a migrating high tide line and increased storm impacts. Repetitive loss of structures > 50% shall only be allowed to be replaced once.
* Recognize that existing legally permitted structures and armoring will continue to exist pursuant to existing valid coastal development permits and other historic valid permits. **This statement appears to be in conflict with early sections that imply a Maintenance Monitoring and Repair Plan will be required for all shoreline protection.**
* Strive to avoid placement of new rip rap revetment in favor of planning for more modern vertical armoring devices, as proposed for Opal Cliffs between 41st Ave and the Capitola City border.
* The County did not alter the language regarding (unconditional liability release) which we believe is unlawful. 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)”.
* The proposed “Sand Mitigation fees” are unreasonable, not based on proven scientific principles, and amount to excessive tax without representation. Therefore, any Sand Mitigation fees must be based on hard science and estimates of the actual potential sand loss which will occur at the site of the proposed armoring devices. The quality of the dirt from erosion of coastal cliffs will not generate quality sand to replenish the beaches. 90% of the sand supply along the Santa Cruz Coastline comes from the rivers, streams and lagoons which dump into the ocean, according to Professor Gary Griggs. There is a natural and seasonal migration of the sand, which affects the sand levels at certain times of the year. These factors must be taken into consideration when determining any Sand Mitigation fees. Property owners may offer improved public access and protection from beach erosion in lieu of Sand Mitigation fees. **Formula for calculating the “Sand Mitigation Fees” not disclosed in the LCP.**
* Coastal Hazards assessments shall only be required for new or substantially modified structures and new armoring devices. **Not clear in the revised LCP.**
* Maintenance and Repair of existing permitted armoring shall not be subject to the required Geologic/Coastal Hazard, Acceptance of Risk, and Liability Release. **This is unclear in the revised LCP.**
* If no substantial structural improvements, redevelopment, or reconstruction are required, permits for existing armoring devices shall be renewed according to provisions in the original permit. **This is unclear in the revised LCP.**
* Recognize the negative impact of the Santa Cruz Harbor and jetties on the downstream beach sand supply and seasonal sand migration. **Not recognized.**
* Consider the installation of point restorations (groins - concrete/shotcrete extensions of rock outcrops) to help trap and retain sand at strategic locations, such as was done in Capitola. **Not considered.**

It appears that the County has made substantial revisions in the revised LCP to accommodate demands from the Coastal Commission and other interest groups. The question is **“can we live with these changes and support the new LCP, or should we now take a position of opposing the new LCP, in which case we will continue to have to deal with the Coastal Commission who is inclined to deny all new coastal permits for re-development and shoreline protection”.**

Sincerely,

Steve Forer
President, Coastal Property Owners Association of Santa Cruz County
[www.coastalpropertyowners.org](http://www.coastalpropertyowners.org)
925 866-1025