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

**CALL TO ACTION FOR 12/10/19** Santa Cruz County Board of Supervisor’s meeting on the final 6.4 Public Safety Element Amendments Local Coastal Program (LCP) and Chapter 16.10 Ordinance Code Amendments Regarding Geologic Hazards.. Meeting starts at **9 a.m.** on the 5th Floor Board of Supervisor’s Chamber, 701 Ocean Street, Santa Cruz, CA. **The LCP is agenda item #16 and is scheduled for 10:45 a.m.**

We have not had sufficient time to complete a thorough review of the 6.4 Public Safety Element Amendments and Chapter 16.10 Ordinance Code Amendments Regarding Geologic Hazards. **There have been substantial changes from prior draft approved by the Planning Commissioners, there are apparent discrepancies between the LCP and Code Amendments, and a number of issues still require further clarification.** Therefore **CPOA-SC can no longer support** **the LCP** until we have completed our review of these documents and obtained an outside legal opinion on how these changes may affect the rights of property owners. **We urge you to attend this important Board of Supervisor’s meeting on December 10, 2019 @ 10:45 a.m..**

Copies of the Santa Cruz County Board Memo, 6.4 Public Safety Element Amendments and Chapter 16.10 Ordinance Code Amendments Regarding Geologic Hazards, can be downloaded from the CPOA website, <https:///www.coastalpropertyowners.org>

The Planning Commissioners approved a revised version of the LCP on 10/23/19, after making additional changes. **At that time we had four remaining concerns, three of which have been adequately resolved in the final LCP:**

1. The term and condition for pre-existing shoreline protection devices **shall NOT be altered.** Those permits issued in perpetuity, prior to or following the coastal act, or more recently issued by the County and Coastal Commission, shall NOT be changed. Property owners will be allowed to maintain their armoring devices according to the terms of their initial permits. **Adequately addressed in Safety Elements LCP but not in the Ordinance Code Amendments.**
2. The concept of an “all cause and unlimited” release of liability, indemnification of the County and Coastal Commission, and “hold harmless” has recently been ruled unlawful (San Diego; Briggs vs California Coastal Commission, 2019). Instead, the liability release to be recorded 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 structures** similar to the language on new County Permit applications. This language must also be in the final LCP. **The language has been altered to better define the limits of the liability release in section 6.4.9, but does not specify the term, which we believe is unlawful.**
3. 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 formula used to calculate Sand Mitigation fees, Recreation Use Fees, and Encroachment fees must be specified in the LCP. These fees will only apply to new construction, re-development or new shoreline protection permits.Property owners may offer improved public access and protection from beach erosion in lieu of these fees. **Adequately Addressed.**

Only **new permits** for new coastal development or re-development (more than ~~65%~~ **50%** of major structural components), and requests for new shoreline protection (armoring devices) shall be required to complete a coastal hazards assessment, file a release of liability, indemnification, and hold harmless document to be recorded on the property deeds, or may be subject to sand mitigation fees.

1. The designated “Shoreline Protection Exception Area” for Opal Cliffs will allow for the development of a “uniform seawall” with increased public access and walkway from 41st Ave. to Capitola City border. 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. **RESOLVED.**

We noticed one additional major concern in the final 6.4 Public Safety Element Amendments.

1. Pg 6-25, Allow property owners in certain defined areas to pursue new or redevelopment **replacement of existing homes only one time unless** they are located within a designated Shoreline Protected Exception Area (Opal Cliffs), or an adopted Shoreline Management Plan (for East Cliff Dr.) provides otherwise, and to maintain and repair homes and existing shoreline protection. Redevelopment means modification/reconstruction of 50% or more of the major structural components or an addition of more than 500 square feet or 50% of the existing habital space of the structure, which ever is greater. New development will be limited to one cycle of replacement/revelopment after the effective date of the 2020 Safety Element. **What is troubling is that the 50% replacement/redevelopment threshold appears to be cumulative for the useful life of the property after 2020, and subsequent property owners may not be permitted to make any renovation or substantial improvements.** If a property owner replaces 30% of their structure one time, and another 20% later, they may not be permitted to make any further changes. Currently the County re-sets the threshold every five years. **This is a substantial change.**

Areas needing further clarification:

1. Will the existing revetment rocks used as shoreline protection on East Cliff Dr. between the Harbor (7th Av) and Soquel Point be required to be replaced with a vertical modern seawall before a Shoreline Protection Plan is established in 2035?
2. What if it is not economically or environmentally feasible to remove all of these revetment rocks and replace them with a vertical modern seawall?
3. Does the on- time replacement of structures > 50% of the major structural components apply to properties under the Shoreline Management Plan or designated Shoreline Protection Exception Area?
4. Is there a cumulation ceiling for renovations which fall below the 50% threshold?
5. Will all existing permitted shoreline protection and coastal bluff armoring eventually be required to file a Monitoring Maintenance & Repair Plan, or will they be allowed to maintain and repair their protective structures according to the terms of their original permits?
6. What about current structures that are less than the required 25 foot set-back from coastal bluffs (15 – 25 feet)? Will they be allowed to be granted permits for new shoreline protection or armoring using more modern techniques?
7. If a uniform modern vertical seawall is permitted along Opal Cliffs from 41st Ave to the Capitola City Boarder, where will the horizontal public access way be accommodated (eg. within 4 feet off the base)? Will the seawall be extended to the top of the bluffs?
8. Can both a Recreational Use Fee and Encroachment fee be applied to the same property or protective structure?
9. Incentivized Management Retreat allows property owners to pursue one new or major redevelopment structure of > 50% of the structural components in exchange for assume risk, liability release, indemnification, hold harmless, and geological hazard assessment with potential mitigation fees. Does this apply to the useful life of the property, or one structure every 20 years?
10. Will new Coastal Development Permits be renewed every 20 years, or can new building codes and hazard restrictions be applied to a previously issued permit?

Sincerely,

Steve Forer
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