Meeting with Kathy Molloy & David Carlson, Santa Cruz Planning Dept. 1-10-20

Steve Forer, Reed Geistreiter, and Derric Oliver, representing CPOA and Bret Sisney, also a CPOA Board Member, met with Kathy Molly and David Carlson on Friday afternoon on 1/10/20, to discuss our concerns, present issues still needing clarification, and propose alternative language in the one time redevelopment/replacement allowance in the latest draft of the Safety Element Amendments 6.4, Local Coastal Program for Beaches and Cliff Bluffs. Although Kathy did address most of our concerns, we were disappointed in her response and justification for limiting the number of major redevelopment/replacement structures to **only one project over** 50% of major structural components or an addition of more than 500 square feet or 50% of the existing habitable area of the structure. We had instead proposed only one time in the same location during the next 20 year planning period unless located within a designated Shoreline Protection Exception Area or an adopted Shoreline Management Plan provides otherwise, and to maintain and repair homes and existing shoreline protection structures. Subsequent redevelopment/replacements would be allowed after the LCP is revised in 2040 and updated based on current seal level rise and coastal erosion, provided it is safe to proceed with further redevelopment/replacements in these coastal hazardous areas. Kathy Molly did indicate they plan to clean-up the language in this section, and to make it clear that the one time limitation applies to the next 20 year planning period, but would not commit to language indicating any future potential major redevelopments/replacement structures after 2040. According to our attorney, Derric Oliver, Kathy agreed to revise (and/or review in consideration of revising) several important provisions in the proposed amended LCP, including:

* “Redevelopment” refers to projects within a 5-year period (i.e., is not “cumulative”);
* To The “one-time only” rule simply means it is not a GH assessment “triggering” event;
* The “may” versus “shall” language (in proposed LCP Policy 6.4.11, para. 2) for calculating the setback based on current site conditions (including existing armoring, where applicable); and
* The “overbroad” (the term Kathy used and wrote in the margin of her working LCP copy) language of LCP Policy 6.4.09 “removal and relocation” for “it is no longer located on private property.”

Below is a summary of Kathy Molloy’s responses (in red) to our questions and areas needing further clarification.

1. What is the justification for limiting the number of major redevelopment/replacement structures (> 50% of major structural components etc.) to only one project over the next 20 years, when the sea level is only expected to rise 0.9 feet, without major coastal erosion? The County thinks this is a “gift” to the property owners to allow one more major redevelopment/replacement structure > 50% in lieu to the Coastal Commission’s position of no further coastal development after 2020, and their calculation of new or major development to include the cumulation of all projects on the property since the Coastal Act was passed in 1977. Furthermore, the County had already offered a concession of reducing the threshold from 65% to 50% of the major structural components in exchange for the inclusion of pre-existing shoreline protection (riprap revetment rocks, seawalls etc.) when determining the required 25-foot set back or 100 year coastal erosion for the location of the structure.
2. We are concerned about how these limitations will affect our property values and impose additional deed restrictions, which must be disclosed upon sale. Sooner or later the property values will be adjusted to reflect the hazards and liabilities of building along the coastline. Property owners must be prepared to accept these risks and pass this information on to potential buyers or property heirs. For the immediate future, property values will probably continue to be based on supply and demand and location of the properties along the shoreline. Sea level rise and coastal erosion will also affect the useful life of the properties and structures, and whether these structures can be safely maintained in their current location. We realize that there was some confusion and that more clarity is needed regarding the “one time” project threshold, how FEMA “substantial improvement” intersects with the “one time” calculations, as well as about “repair and maintenance”.
3. There should be no new limitations on shoreline protection imposed by the County that are more restrictive than what is permitted by the Coastal Act. Agreed, except for the provisions addressing current sea level rise and coastal erosion in Santa Cruz County. The County has jurisdiction over land use in Santa Cruz County, and develops all building and safety codes in compliance with State and Federal Regulations.
4. Are the properties between Soquel Point and Pleasure Point (including the Palasades, Pleasure Point Drive and Rockview) considered to be included in the area designated for a Shoreline Management Plan or the Shoreline Protection Exception Area? According to the geological coastal survey map, Soquel point extends from 32nd Avenue and the property located at 3052 Pleasure Point Drive. Therefore all those properties along the Palasades, Pleasure Point Drive, and Rockview are considered to be included in the area designated for the Shoreline Management Plan. Starting at Soquel Point, 3054 Pleasure Point Dr to the Capitola City border, those shoreline properties will be included in the Shoreline Protection Exception Area, and will eventually have a uniform vertical seawall.
5. 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? What about properties without any current shoreline protection? Will they be allowed to install a seawall? There will be no requirement imposed by the County to remove or replace revetment rocks (riprap) along East Cliff Dr. unless there is a triggering event such as a new Coastal Development Permit or the rocks become unstable and cannot be restacked and pose a safety hazard to the public.
6. What if it is not economically or environmentally feasible to remove all of these revetment rocks along East Cliff Dr. and replace them with a vertical modern seawall? A Geological Hazard Assessment and coastal engineering plans will be developed as part of the Shoreline Management Plans for sections of East Cliff Dr., and if it is determined that it is not economically or environmental feasible to remove the revetment rocks in certain locations, alternative plans will be developed.
7. Does the one-time replacement of structures > 50% of the major structural components apply to properties under the Shoreline Management Plan or designated Shoreline Protection Exception Area? OR only properties outside these designated areas? Those properties located in the designated areas for the Shoreline Management Plan or Shoreline Protection Exception area, will be exempt from the one time only replacement limitation provided the structures meet the required 25 foot set back, and property owners accept the risk and liability of building in coastal hazardous areas and sign a release of liability which is recorded on their property deed. The shoreline protection devices in these areas will be taken into consideration when calculating the required 25-foot set back.
8. Is there a cumulation ceiling for renovations which fall below the 50% threshold? No. We are NOT pursuing a “cumulative” approach to the “one-time allowed new or over 50% Major Structural Components” – it’s a Project by project calculation for the most part.  Only the FEMA floodplain 50% of value within 5 years is a cumulative type of calculation.
9. 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? No, only if there is a triggering event such as replacement/repair of more than 50% of the shoreline protective device, or 20% new material added to support the structure. Then the property owner would need to file for a new Coastal Development Permit or an Amendment to their existing permit. At this point, the County would require a Monitoring Maintenance & Repair Plan be developed by a licensed engineer and submitted and recorded on the property deed.
10. 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? If these structures are in the Shoreline Protection Exemption Area or the Shoreline Management Plans specifies that additional shoreline protection is warranted to protect adjacent properties with existing shoreline protection, then new Coastal Development Permits for shoreline protection would be considered.
11. If a uniform modern vertical seawall is permitted along Opal Cliffs from 41st Ave to the Capitola City Border, where will the horizontal public access way be accommodated (eg. within 6 feet off the base)? Will the seawall be extended to the top of the bluffs? The concept of a uniform modern vertical seawall would extend from the bedrock as the bottom of the cliffs to the top of the bluffs, and would include a horizontal protected pathway built in to the seawall. The height of that pathway would be determined based on Geological Hazards Assessments and engineering studies. The liability for public injuries along this pathway would not be born by the County or the Property Owners, but instead by the Geologic Hazards Assessment District (GHAD) once it is formed.
12. Can both a Recreational Use Fee and Encroachment fee be applied to the same property or protective structure? Possibly, Nexus and Proportionality would be applied.
13. Incentivized Management Retreat allows property owners to pursue only 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? The Safety Element Amendments 6.4, Local Coastal Program for Beaches and Cliff Bluffs and corresponding Chapter 16.10 Ordinance Code Amendments Regarding Geologic Hazards only address then next 20 year planning period, and will be revised in 2040 based on current sea level rise, coastal erosion, and stability of the coastal bluffs and beaches.
14. Will new Coastal Development Permits be renewed every 20 years, or will new building code and hazard restrictions be applied? No. CDP’s will not expire. New code and hazards restrictions will be applied only if there is a triggering event such as a new, redevelopment/replacement > 50% of major structural components, or a repair or replacement of more than 50% of the shoreline protection or more than 20% new material.

**Please let us know if you have any other concerns regarding the proposed final LCP that we have not already addressed by 1/22/20, so we can discuss those concerns at our next CPOA-SC Board meeting on 1/23/20. We hope to have the final draft of the County’s LCP by then, and will be preparing a letter to the County Board of Supervisors prior to their vote on the final LCP scheduled for 1/28/20. Please plan to attend the Board of Supervisor’s meeting on Tuesday 1/28/20 @ 9:15 a.m. at the County Building located at 701 Ocean St., 5th floor, Supervisor’s Chambers.**

Respectfully Submitted,

Steve Forer,

President, CPOA-SC