Meeting with Kathy Molloy Santa Cruz Planning Dept. 2-27-20

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. A copy of our notes from this meeting are attached for reference. A letter was submitted by our attorney, Derric Oliver of Fenton and Keller to Kathy Molloy dated 2/7/20, with copies to the Board of Supervisors. We continue to have concerns, questions, and requested changes to latest draft of 6.4 Safety Element Amendments Local Coastal Program for Beaches and Cliff Bluffs and Chapter 16.10 Safety Hazards Code Amendments to the Building Code, and CPOA has requested a follow-up meeting with Kathy Molloy on 2/27/20. Derric Oliver, led the discussion on behalf of CPOA. Notes from meeting taken by S. Forer are intended for internal use by CPOA.

Below is a summary our questions and areas needing further clarification, and notes taken by S. Forer regarding Kathy’s responses in “red” where available. These notes do not necessarily represent the County’s final position on these issues.

1. Does the one-time limitation on major redevelopment/replacement structure apply to:
   1. All future projects on the property. Yes for projects > 50% of the major structural components. All projects will be subject to the conditions of the LCP: 25 foot or 75 year projected set back, Geohazards Assessment, signed indemnification, hold harmless and assumption of risk to be recorded on property deeds, and mitigation fees where they apply. Property owners will be allowed an unlimited # of projects < 50%. Those parcels in the Shoreline Protection Exception Area (SPEA), may be exempt from many of these requirements.
   2. Only due to replacements due to coastal erosion. No. applies to all projects > 50%.
   3. Replacements due to natural disasters such as fire or earthquake damage. For structures involuntarily damaged by other than coastal hazards (fire, for example), where the loss involves 50 percent or more of the Major Structural Components, allow repair “in kind.” but encourage relocation to increase the setback if feasible. Allow other that than “in-kind” reconstruction, redevelopment or replace in accordance with all applicable LCP policies and regulations.
   4. Cumulative improvements (< 50% of major structural components). None. Each project < 50% will be evaluated individually with no cumulation.
   5. Is exempt from the new LCP and Safety Code requirements. No all requirements apply unless the parcel and structure are in the SPEA, or waved in the Shoreline Management Plan (SMP).
   6. Must still meet the 25’ set back or 75 year estimated erosion. Yes, unless in the SPEA or specified in the SMP.
   7. Will future property owners be allowed to make major improvements. Only 1 project > 50% will be allowed, but unlimited projects < 50%.
   8. Major redevelopment/replacement should be based on a rolling consecutive 5 year period. Only applies to FEMA Flood Zone areas.
2. Staff seem to refer to the Coastal Guidelines for Sea Level Rise and Residential Adaptation as regulations or law pursuant to the Coastal Act, and current practices of the CCC. They are not law or regulations, and therefore cannot be enforced. However, once the County includes these guidelines in the LCP and Code Amendments, they become legal binding requirements. **“amend the existing rules for building on coastal bluffs and beaches to address climate change and sea level rise as required by state law.”** Not discussed.
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. The County has argued that the definition of “new” major redevelopment/replacement projects apply to structures built after LCP is approved in 2020, not retro to the Coastal Action 1/1/1977.
4. 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.
5. 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? **CPOA has suggested the demarcation point proposed SPEA as 2868 S. Palisades Avenue (APN 028-304-78), and to clarify/identify which parcels are within the proposed SMP areas. Up-coast properties would be included in SPEA.** Agreed. 2868 S. Palisades Ave (APN 028-304-78) will be the beginning of the proposed SPEA which will extend to the Capitola City border.
6. The definition of “repetitive loss” needs to be expanded to be any repetitive reoccurring losses within a 60 day storm cycle, over a 10 year rolling period. County will review and consider modified definition of “repetitive loss”, but must be consistent with FEMA disaster definition.
7. The methodology used to calculate the minimum 25 foot setback **“shall”** take into consideration any existed and permitted shoreline protection devices. Language will be modified to indicate that under most circumstances, existing shoreline protection devices **will** be taken into consideration when determining the 25’ foot or 75 year setback location.
8. New shoreline protection may be allowed to protect parcels and structures on lots adjacent to parcels with existing shoreline protection to prevent cascading erosion of coastal bluffs and weakening of existing shoreline protection devices. Agree in concept.
9. Removal of structures at owner’s cost should be limited to structures that have become unsafe and pose a safety hazard to the public and have been “red tagged” by the County. This is the County’s intent, and not to require removal of structures which are encroaching on public lands, but encroachment fees may apply.
10. Removal of any shoreline armoring should only be required when:
    1. The shoreline protection device(s) have become unstable and unsafe and cannot be repaired. Agreed.
    2. The removal of the shoreline protection device(s) will not impact adjacent parcels with similar existing shoreline protection. Agreed.
    3. When ever possible, the shoreline protection devices should be repaired/replaced in such a way so as to reduce the foot-print on public beaches, and to provide additional public access. Not discussed.
11. The “Shoreline Management Plan” when developed, shall include additional details regarding SMP creation procedures, timeframe, and cost burdens to provide coastal property owners with sufficient “assurance. Not discussed.
12. There are many inconsistencies in the language included in 6.4 Safety Element Amendments, Local Coastal Program for Beaches and Cliff Bluffs as compared to Chapter 16.10 Safety Hazards Code Amendments of the Building Code, which need to be corrected. Not discussed.

We request that Planning Department staff carefully review the letter submitted by Derric Oliver dated February 7, 2020 with a detailed analysis of the LCP and Code Amendments, suggested changes and areas needing further clarification. We continue to work with the County on refining these documents so that they are clear, meaningful, and reasonable based on current conditions, State Law, and protect the rights of property owners. **The final revised LCP and Code Amendments to be presented to the Board of Supervisors on March 10, 2020, will not be available until Thursday March 5th with the Board Agenda.**

Thank you for your final consideration.

Steve Forer

President, CPOA - SC