Conference call with Kathy Molloy & David Carlson of the Santa Cruz Planning Dept. 8/19/20

CPOA Board representatives; Steve Forer, Reed Geistreiter, and Bret Sisney, and Parajo Dune representatives; Charlie Edie, Jeff Raimundo, and Carol Turley had an audio conference call with Kathy Molly and David Carlson on Wednesday afternoon on 8/19/20. A copy of our notes from this meeting are attached for reference. Notes from conference were taken by S. Forer are intended for internal use by CPOA.

Derric Oliver, attorney from Fenton Keller, representing CPOA-SC, submitted a letter on 4/17/20 to Kathy Molloy, Director of Planning & Building Development for the County of Santa Cruz, outlining the latest proposed changes to the LUP & IP Local Coastal Plan for Coastal Beaches and Bluffs. On March 10, 2020, the County Board of Supervisors adopted a motion from Supervisor Leopold directing County planning staff to make certain revisions to the proposed LCP updates. CPOA’s proposed revisions incorporate changes necessary to clarify that the so called “one-time-only” rule is not a general development limitation, but instead applies only to the redevelopment or replacement of existing homes damaged or destroyed due to coastal processes (e.g., wave action, sea level rise/inundation, erosion) and to exceptions to the required geologic hazards setback where appropriate. These revisions also help clarify when shoreline armoring will be considered in calculating the required minimum setback. CPOA shared these proposed revisions with Supervisor Leopold and it appears they are consistent with the intent of his adopted motion. The changes are in addition to those requested by the CPOA in Derric Oliver’s letters to Kathy Molloy dated February 7, 2020 and March 6, 2020.

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. **The red-lined copy of the LCP revisions since 3/10/20 Board of Supervisor’s Meeting, should be available by 8/27/20 as part of the Board packets for the 9/1/20 Board of Supervisor’s meeting.**

1. Has the County accepted the recommended changes as outlined in the Derric Oliver letter dated 4/17/20; No, not in its entirety. The County has proposed alternative language to address greater flexibility in the “one time only” limitation on major redevelopment/replacement structures pursuant to the Board of supervisor’s motion on 3/10/20 # 4 listed below:

Amend the third paragraph of Public Safety Element Section 6.4.11 to provide more flexibility in allowing property owners to rebuild or remodel non-coastal protection structures (i.e., habitable structures) if those structures have not been subject to damage related to coastal processes, such as wave action, sea level rise/inundation, or erosion, unless subject to an approved Shoreline Management Plan. Make similar revisions to SCCC 16.10.070(H)(l)(I).

According to Kathy Molloy, the revised LCP language will provide property owners with the opportunity to complete one major redevelopment/replacement project involving more than 50% of the major structural components during the next 20 years (until 2040) without triggering the requirements for the Geological Hazards Assessment and 75 year set back requirement. A property owner may apply for subsequent major redevelopment/replacement projects, but will be subject to the new LCP requirements, geological hazards assessment, and 75 year set back. It will be possible for the property owner to apply for a waver to these requirements based on a hardship or emergency situation, provided they are willing to accept a projected useful life less than 75 years, which must be recorded on their property deeds.

It is interesting that this new language clarifying the “one time only” limitation is similar to alternative language previously recommended by CPOA.

It is considered reasonable to allow property owners in certain defined areas to pursue new or redevelopment/replacement of existing homes 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.

**CPOA will have to wait for the final red-lined LCP changes which should be available by 8/27/20, to determine if the County’s proposed alternative language is acceptable.**

1. Does the one-time limitation on major redevelopment/replacement structure apply to:
   1. All future projects on the property. No only projects > 50% of the major structural components **during the next 20 years**. Subsequent 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), will be exempt from many of these requirements. Property owners may apply for a waver from the 25 foot or 75 year projected set back, Geohazards Assessment under hardship or emergency conditions, provided they are willing to accept a projected useful life less than 75 years, which must be recorded on their property deeds.
   2. Only due to replacements due to coastal erosion. No. applies to all projects > 50%.
   3. Will the first major redevelopment/replacement project be allowed to take any existing shoreline armorment into consideration in determining the minimum 25 foot or 75 year set back for the structure? Yes. Subsequent major projects will be required to meet the 25 foot or 75 year set back, and the stability of any shoreline protection will be evaluated.
   4. 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 of up to 70% of the major structural components or replace 100% in accordance with all applicable LCP policies and regulations.
   5. Cumulative improvements (< 50% of major structural components). None. Each project will be evaluated individually with no cumulation.
   6. 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).
   7. Must still meet the 25’ set back or 75 year estimated erosion. Yes, unless in the SPEA or specified in the SMP.
   8. Will future property owners be allowed to make major improvements. Yes if after 2040 or they may apply for a waver. Property owners may apply for a waver from the 25 foot or 75 year projected set back, Geohazards Assessment under hardship or emergency conditions, provided they are willing to accept a projected useful life less than 75 years, which must be recorded on their property deeds.
   9. Major redevelopment/replacement should be based on a rolling consecutive 5 year period. Only applies to FEMA Flood Zone areas.
2. Will both the FEMA standards and the LCP requirements be applied to properties in FEMA Flood Zone Areas? Yes. 1st all relevant FEMA standards will be applied, then any additional requirements from the LCP which are not already covered by the FEMA standards.
3. What options are available for improvement/replacement structures on the beaches in FEMA Flood Zone areas? A major redevelopment/replacement structure may be elevated up to 10 feet above its existing location to accommodate coastal hazards, storm surge or wave run-up. No new shoreline armorment will be allowed on the beaches. However, existing armorment will be allowed to be maintained and repaired subject to the conditions of the current Coastal Development Permit. If more than 50% of the armoring device, or repairs require more than 20% new material, the property owner would have to apply for a new CDP.
4. 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.
5. 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.
6. What is the demarcation for Soquel Point? 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. One of our CPOA members made a strong case to make 2866 S. Palisades Ave (APN 028-304-72) as the appropriate demarcation of Soquel Point. Up-coast properties would be included in SPEA.County agreed. 2866 S. Palisades Ave (APN 028-304-72) will be the beginning of the proposed SPEA which will extend to the Capitola City border.
7. 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.
8. 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.
9. 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.

**The final revised LCP and Code Amendments to be presented to the Board of Supervisors on September 1, 2020, will not be available until Thursday August 27th with the Board Agenda.**

Thank you for your final consideration.

Steve Forer

President, CPOA - SC