

COASTAL PROPERTY OWNERS' ASSOCIATION OF SANTA CRUZ COUNTY

**California Coastal Commission -
Central Coast District**

Re: October 14, 2020 CCC Meeting

Item F10 e) Local Coastal Programs

**Santa Cruz County LCP Amendment Number LCP-3-SCO-20-0066-2 (Coastal Hazards Update)
Comment Letter**

Dear Commissioners:

The Coastal Property Owner's Association of Santa Cruz County (CPOA-SC) currently has over 555 members, including ten Homeowner's Associations (HOAs), representing approximately 1,200 Coastal properties. We have been collaborating with the County of Santa Cruz Planning Department and Board of Supervisors in developing the proposed Amendments to the LCP Safety Element 6.4 (Land Use Plan) for Coastal Beaches and Bluffs, and the Geological Hazards sections (Implementation Plan chapter 16.10), which are now before the Coastal Commissions for Certification. The Santa Cruz County Board of Supervisors voted to approve the LCP Amendments on September 15, 2020, and submitted a final application to CCC in December 2020. The County received a CCC Comment letter on 9/9/20 with their concerns about the LCP. However there has been little work done on the LCP during the past two years, due to local CCC staff turnover, and the COVID-19 Pandemic. CCC staff have prepared and posted a Final Report dated 9/30/22 on item F 10 e, for the Coastal Commission Hearing on October 14, 2022, in San Diego, CA. According to the CC Staff Report, the County's Proposed LCP Amendments, were too complex, confusing, with many internal inconsistencies, and were not consistent with the Coastal Act, and therefore CCC staff recommended they be denied.

We are very concerned about the delay and lack of progress on the LCP Amendments over the past two years, and how a denial of the LCP Amendments by the CCC will affect the County's ability to further negotiate changes and to be able to develop a revised plan that is reasonable for the County and will ensure ongoing preservation of coastal beaches and bluffs given sea level rise. Although we could not support the final LCP Amendments adopted by the County Board of Supervisors due to many internal inconsistencies in the documents which could lead to misunderstandings about existing coastal armoring and property rights, we did support most of the concepts in the proposed LCP Amendments including the proposed definition of "Existing Structures", "Shoreline Protection Exception Area", and other requirements shoreline protection. CPOA-SC is committed to continue to work with the County, Coastal Commission, and major stakeholders to come up with a plan that is reasonable, feasible and cost effective to preserve our California Coastline for both public and private use with expected Sea Level Rise. In most situations the County's plans which are articulated in the LCP Amendments will actually improve public access to the beaches while protecting public safety.

At the 9/20/22 meeting the Santa Cruz County Board of Supervisors voted to proceed with the LCP Amendments submitted to the CCC for Certification, and to wait for a written response from the Coastal Commissioners following the October meeting. CPOA hereby submits the following Comments regarding agenda item F 10 e, for the CCC Hearing on October 14, 2022.

**CPOA Comments re Santa Cruz County LCP Amendment Number LCP-3-SCO-20-0066-2
(Coastal Hazards Update):**

Major Differences between CCC's Position vs. County Proposed LCP:

- 1) **CCC's definition of "existing structures"** being those structures which were present prior to the Coastal Act (January 1, 1977). CCC continues to push this definition, to retroactively apply coastal building restrictions and additional requirements to the majority of coastal properties. In the past the CCC has argued just the opposite position when challenged by the Surfrider's Association. Also there is a court case pending trial of a case; Costa Mira HOA vs the CCC over this very issue, of retroactively imposing new requirements. Also it would be nearly impossible for the County to produce records of construction and redevelopment in coastal hazard zones back to 1977. The CCC established Sea Level Rise Policy Guidance on November 17, 2018, which includes new and detailed requirements for properties within the designated Coastal Hazards Zones, and which must be addressed in the LCP Amendments, per CCC. Since these are new requirements for building and maintaining structures in Coastal Hazard Zones, CPOA believes these requirements can NOT be applied retroactively to the date of the Coastal Act (January 1, 1977). There the following definition of "Existing Structures" is proposed as an alternative to CCC and that which is specified in the County's proposed LCP Amendments.

An Existing Structure is any structure which was in existence at the time the California Coastal Commission issued the Sea Level Rise Policy Guidance (November 17, 2018), which includes old structures in existence prior to the Coastal Act (January 1, 1977), any new structures or redevelopment which had received an approved Coastal Development Permit from the County or the Coastal Commission, and construction was completed by November 17, 2018.

- 2) **No new armoring for existing structures or redevelopment** in coastal hazard zones. According to CCC, the Coastal Act generally prohibits shoreline armoring except to protect pre-Coastal Act (January 1, 1977) structures or coastal-dependent uses, while ensuring the shoreline protection devices do not impact the natural resources and public access to beaches along the coastline. New structures or proposed re-development shall not be allowed to rely on existing shoreline armoring. The County Proposed LCP Amendments allows property owner's one major redevelopment project which can rely on existing shoreline protection in all of the areas excluding the "Shoreline Protection Exception Area" (SPEA), where there would be no such restriction.

Coastal properties without existing armoring that are not in eminent danger from coastal erosion would NOT be eligible for new shoreline protection, unless structures are relocated inland if feasible, allowing for greater public access to beaches and coastline. Redevelopment proposals should be able to rely on existing shoreline protection, which are stable and adjoining other shoreline protection.

- 3) **Shoreline Protection Exception Area (SPEA).** The County had proposed a "Shoreline Protection Exception Area, **extending approximately 1.4 miles from Soquel Point (APN # 028-304-72) to the Capitola City border.** The coastal bluff at Pleasure Point and along East Cliff Dr. to 41st Ave., has a uniform sea wall with a public pathway above the ocean level and six sets of public stairs to increase access to the beach and coastline for surfing. The plan was to remove any debris, revetment rocks, or partial sea walls along the section of coastal bluffs from 41st Ave. to the Capitola City border, and install a uniform sea wall along that section of

the coastal bluff, similar to that installed at Pleasure Point. The Opal cliff section of the coastal bluffs is largely inaccessible except at 41st and at "Privates" beach public access. The current shoreline and armoring between 41st and the Capitola City border are non-uniform, hazardous, unattractive and do not allow easy public access to most of this coastal section. Only at low tides, can the public walk over slippery rocks to access this section of the coast. A uniform seawall with a public pathway and access will correct all of these problems. Although the CCC staff were open to this concept, the plans need to be more detailed with a written justification for why such a seawall would be in the public's interest to provide better coastal access, and for public safety. The terms and conditions for additional armoring have not been specified, nor has a hazards assessment been completed including mitigating the impact on coastal access. The Surf Rider's Association and other environmental groups are opposed to this concept of a "Shoreline Protection Exception Area", and it is unlikely that the County will be successful in getting this approved by the CCC without a stronger justification and detailed plans. A new uniform seawall along this section of the coastline, with a public pathway and new improved access, will increase safe access to the coast for swimming and surfing.

A more detailed plan for a Uniform Seawall along Opal Cliffs:

A Geologic Hazards Assessment District (GHAD) would be formed between the property owners along Opal Cliffs and the County of Santa Cruz. The GHAD would fund the geologic hazards assessment studies, engineering, design and construction of the uniform seawall, at no expense to the public. All debris, existing revetment rocks, and unstable seawalls would be removed. A Uniform Seawall would be constructed, with a horizontal pathway approximately 10 feet above the median high tide level, and 3 public easements with stairways (including 2 existing stairways at 41st Ave and Privates) down the cliffs to access this new public pathway. This new seawall and path would provide greater safe public access, even during moderate tides, so the public could access this section of the coast safely. In addition, it would protect the sandstone bluffs from further collapsing or causing injury to those who dare venture along the foot of this unstable bluff area. This is a Win:Win for the County, Public and Property owners, at no expense to the public.

- 4) The **requirement for** all property owners with existing shoreline protection (seawalls or revetment rocks) to file a "**Monitoring, Maintenance, and Repair Plan (MMRP)**" and to routinely inspect, maintain, and repair the shoreline structures and prevent any seaward migration. However, CCC may require this shoreline protection be removed when the public beach head is decreased due to sea level rise. This is a change in the terms and conditions for some of the older Coastal Development Permits (CDPs) for shoreline protection which was installed in the 70's and 80's. Such shoreline armoring may impact the sand supply, and with sea level rise the public beaches will eventually be squeezed out of existence. CCC claims that the majority of East Cliff Drive dwelling were built after the Coastal Act and therefore not entitle to Shoreline Armoring. The Live Oak District appears to be the primary focus of the CCC.

The section of coastal bluffs between and Santa Cruz Harbor and Soquel point is mostly armored with revetment rocks which are stacked against to bluffs to help prevent further erosion. Most of these rocks were installed in the 1980s at the permission of the County and the Coastal Commission. However, as sea level rise has accelerated, and with increased storm surges, the need to properly maintain and repair these revetment rocks has become more apparent. In most situations, the County and Coastal Commission have required that the property owners file a "Monitoring, Maintenance and Repair Plan" for their revetment rocks. But according to the local CCC office, only about 20% of the property owners have been compliant. A number of sea caves have been discovered behind these rock revetments, and the rocks may become unstable and at risk for public safety. Therefore, it is recommended:

All property owners with any shoreline protection devices such as revetment rocks or seawalls, shall file a "Monitoring, Maintenance and Repair Plan" with the County and CCC, and shall conduct period inspections at least every five years by a licensed engineer to ensure the ongoing stability and safety of the shoreline protection device. When necessary, at the property owner's expense and notification to the County and Coastal Commission, the property owner will hire appropriate contractors and engineers to retrieve any migrant debris or rocks which have slipped seaward, and repair the shoreline protection. This may require a Grading Permit from the County. The majority of revetment rocks along East Cliff Dr. between the Harbor and Soquel Point are currently stacked on "Private Property" above the Median high tide level. Eventually, with Sea Level Rise, other adaptation strategies may be necessary as part of area specific "Shoreline Management Plans" to ensure continued and improved access to public beaches and recreational areas along the Santa Cruz coastline. The CCC's comments regarding loss of beach head, ignores the natural migration of sand from the tributary rivers and streams, down the coastline, with sand levels fluctuating as much as 15 vertical feet in some locations. Sand generally recedes in the Winter months and returns in the Spring/Summer.

- 5) When necessary, **managed retreat to move structures inland** to preserve public access and beaches. This is being challenged at the State level, and is considered to be a "property takings without compensation". The County had proposed to use "managed retreat" only in the rural areas.

We are opposed to "Managed Retreat" and taking of private property in any of the urbanized areas of Santa Cruz County, without just compensation to property owners.

- 6) Simplify the County Proposed LCP Amendments, clarify inconsistencies, and ensure the County's proposed LCP Amendments are reasonably consistent with the Coastal Act.

We believe the County's proposed LCP Safety Element 6.4 (Land Use Plan) for Coastal Beaches and Bluffs, and the Geological Hazards sections (Implementation Plan chapter 16.10) need to be revised. We also think it would be a good idea for the County to conduct a countywide hazards assessment to identify and prioritize the areas at greatest risk of flooding and coastal erosion with each foot of sea level rise. This will help the County plan and budget for needed improvements.

Thank you for the opportunity to submit comments regarding item 10 e), Santa Cruz County LCP Amendment Number LCP-3-SCO-20-0066-2 (Coastal Hazards Update). We hope we can continue to work with the County, CCC staff and major stake holders to revise the propose LCP Amendments for Coastal Hazards so that they are reasonable for the County and will ensure ongoing preservation of coastal beaches and bluffs given sea level rise, and are certifiable by the Coastal Commission.

Submitted by:

Steve Forer

President, CPOA-SC