



County of Santa Cruz

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October 7, 2022

Donne Brownsey, Chair
 California Coastal Commission
 455 Market Street, Suite 300
 San Francisco, CA 94105

Subject: County of Santa Cruz Local Coastal Program Amendment Number LCP-3-SCO-20-0066-2 (Coastal Hazards Update)

Dear Chair Brownsey and Commissioners:

The County of Santa Cruz (County) fully supports amending its Local Coastal Program (LCP) to begin addressing sea level rise. To this end, the County Board of Supervisors (Board) adopted the Coastal Hazards Local Coastal Program Amendments (LCP Amendment) in September 2020. The County's LCP Amendment project occurred over a period of several years with an intense two-year period of community meetings and numerous public hearings at the Planning Commission and the Board. County staff has worked diligently over the past four years with Coastal Commission (Commission) staff on development of the policies proposed in the LCP Amendment with discussions on these policy updates going further back a decade. The County understands the key policy disagreements from the perspective of both the public and private interests and therefore attempted to navigate an approach to the LCP Amendment that respected both. Along the way, the County has always recognized the difficulty of this task and leading up to this public hearing the County remains hopeful the Commission's direct participation will help make the path forward clearer, if not less difficult.

A Threat to Coastal Resources

Considering public and private interests. The County agrees that sea level rise, coastal erosion, and loss of beaches are issues that must be addressed in order to protect our coastal resources and is committed to implementing solutions to this important issue. The County agrees with the staff report that coastal hazard issues in the age of sea level rise (and sea level rise uncertainties) are some of the more vexing planning issues and questions of our time, with a wide range of viewpoints on how best to adapt and be more resilient. The County further agrees there is much at stake and no obvious one right answer that will be acceptable to all or even most stakeholders. There is a balance that must be achieved, and this common observation led the County to take a hybrid approach in attempting to bring existing County policies incrementally closer to those suggested in the Sea Level Rise Policy Guidance document while implementing an approach that can be achieved on the ground and is focused on health and safety for our community and improving existing conditions with respect to public access and recreation along the coast. We appreciate and agree with Commission staff that

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these policies may be considered forward-looking and can provide a basis for further work with Commission staff as we move forward.

Past and present policy considerations. It is no surprise the key policy disagreements involve the definition of an existing structure and redevelopment. The County has a long history of processing Coastal Development Permits (CDPs) based on the County's existing LCP policies summarized in the attachment. As stated in the staff report to the Commission, the overwhelming majority of ocean/beach fronting development, including houses and shoreline armoring, was either originally developed or redeveloped since 1977. For the most part this development was permitted under CDPs approved by the County and the Commission pursuant to the historic County LCP policy approach. This is the legally established existing development that the proposed LCP policies attempt to leverage to achieve positive outcomes for public access and recreation along the coast. However, in recent years the Coastal Commission has adopted increasingly restrictive and retroactive definitions for existing structures and redevelopment as part of its Sea Level Rise Policy Guidance. The County understands the reasoning behind the policy approach adopted by the Commission and the related coastal resource issues surrounding shoreline protection structures. However, the policy shift represents a significant reduction and in some cases the elimination of buildability of countless coastal properties in the County. The County's "hybrid approach" seeks to mitigate this impact and take an incremental approach to shifting its policies in response to projected sea level rise and looks forward to working with Commission staff to reach as much consensus and compromise as possible on a policy approach that can be approved by the Commission.

Protection of Coastal Resources

Finding a path forward. County staff is committed to pursuing the clearest and quickest route to an LCP Amendment that can be certified by the Commission, which will involve working closely with Commission staff to come to as much consensus and compromise as possible. Based on extensive public processes both locally and in other coastal jurisdictions and at the Commission level, the relevant issues, and positions of the various stakeholders on the provisions of a future LCP Amendment are well established. While the County's attempt to date to navigate a middle ground with a hybrid approach have not been successful, the staff report acknowledges there are aspects of the County's proposal that are forward-thinking and County staff agrees with Commission staff in looking forward to a staff-to-staff collaboration to further these concepts and find overall consensus.

It is imperative this LCP Amendment effort is not abandoned in favor of maintaining the status quo. Withdrawing the LCP Amendment or doing nothing after the Commission acts on the LCP Amendment would have the effect of perpetuating ongoing conflicts between the County, applicants, and the Commission staff regarding how coastal hazards regulations apply to individual projects. The current situation is not an efficient permit process because of the uncertainty created by conflicting agency policy interpretations and the ultimate authority of the Commission to appeal a project approved by the County. Thus, the County is seeking a positive outcome from this process by requesting guidance from the Commission on a series of key policy issues that must be resolved to clear a path forward.

Existing structures in Santa Cruz County. The County has always defined an existing structure as whatever is legally existing on the property when an application is submitted. In the first two drafts of the Sea Level Rise Policy Guidance (10/2013 and 5/2014) there is no definition of an existing structure. However, redevelopment was defined, in part, as cumulative alterations of an existing structure from the date of certification of the LCP. It is not clear if this refers to an existing LCP or an amended LCP. The second draft of the Guidance, includes a legal analysis that states, "In a few instances, however, the Commission has treated structures built after 1976 as existing structures entitled to shoreline protection even if no adjacent pre-

Coastal Act structure also need protection.” In Santa Cruz County, under the existing certified LCP, this has been the case in the overwhelming majority of instances. This is why the majority of ocean/beach fronting development in the County, including houses and shoreline armoring, was either originally developed or redeveloped since 1977. Therefore, the County hopes to reach compromise on the definition of an existing structure based on this policy and permit history with as much consensus as possible in the spirit of fairness.

Redevelopment of an existing structure. This concept, of course, is related to the definition of an existing structure. The key issue for Santa Cruz County and probably other jurisdictions is record keeping. To the extent the definition of redevelopment is retroactive requires adequate records to document past structural alterations. This is an acknowledgement the County simply does not have complete records going all the way back to 1977 that would allow this. The County hopes to reach compromise on the definition of redevelopment that would allow a fair and accurate application of the definition. Related to the definition of redevelopment, the County introduced a policy concept loosely described as “one and done”. The idea arose as a compromise that would allow property owners one additional redevelopment project before the managed retreat policies of the Commission would become effective. Such a policy is similar to simply defining redevelopment from the effective date of the LCP Amendment date and, again, is based on a fairness argument.

Maintaining and phasing out existing shoreline armoring. The County recognizes a potential looming problem related to deterioration of existing shoreline armoring. In fact, it's an existing problem. In Santa Cruz County there is a wide variety of existing shoreline armoring of various ages, states of repair, and levels of impact on public beaches and shoreline areas. Some has deteriorated to an extent that unsafe conditions exist and at least one physical injury is known to have been caused by a deteriorated shoreline armoring structure. Allowing existing shoreline armoring to deteriorate creates a serious problem for the County's beaches and other shoreline areas. Dealing with this problem was the motivation for the County's proposed LCP policy construct to leverage redevelopment of existing structures to require maintenance and improvement of existing shoreline armoring to improve conditions along the shoreline and collect mitigation fees that would go toward public access improvements along the coast. The County recognizes the Commission may perceive this policy construct as perpetuating shoreline armoring. However, the County believes the concept has the potential to achieve a phase out of shoreline armoring while maintaining adequate levels of public safety. Not an easy task but one the County feels is vitally important to maintaining public safety and the long-term protection of public access and recreation resources along the coast. The County would welcome feedback from the Commission on this concept. The County also needs direction from the Commission on how to address public infrastructure, such as roads, sewer, water, and other utilities. If the goal is to allow natural coastal retreat, then significant time (i.e. – 40 years) is needed to relocate this type of infrastructure, and in the meantime this infrastructure must be protected.

Shoreline Protection Exception Area. This idea is based on continuation of the successful County shoreline armoring projects at Pleasure Point and The Hook. The County recognizes these County projects are located along public coastal bluff areas and the SPEA is comprised nearly entirely of private property. That is why the SPEA concept is based on the condition that any project must include public access improvements both vertically and laterally along the coast. The area is characterized by lack of significant beach formation and contemplated improvements would remove debris from deteriorated shoreline armoring and expand beach area, at least in the short term. The County would welcome feedback from the Commission on the SPEA concept.

Transition

Meeting present and future challenges. The County appreciates the detailed analysis in the staff report and the work that Commission staff has done coordinating with County staff and considering the County's concerns. The County understands the major threat posed by existing and aging shoreline armoring and shares the policy goal to protect sensitive coastal resources. The County believes that fully embracing the Commission's suggested policy approach imposes severe restrictions on coastal property owners, both public and private and hopes to find a balance between reasonable expectations regarding existing and future development and protection of sensitive and invaluable coastal resources. The County strongly believes in a transitional period, where in the short term say for the next 20 years, homeowners can maintain their homes and existing sea wall protections including on footprint upgrades and remodels to ensure health and safety is protected. Furthermore, the County would like to work with Commission staff to develop policy language describing how this proposed transition will then come into full conformity with the Coastal Act policy. The County wants to create an expectation and future vision with ample time for homeowners to adjust to this new reality. The County believes that the Board-adopted Coastal Hazards LCP Amendments attempt to provide the important polices and implementing ordinances to incrementally address protection of sensitive coastal resources and the future challenges associated with sea level rise.

County staff anticipates working with Commission staff to resolve the points of disagreement and resubmitting the Coastal Hazards LCP Amendment for certification in 2023.

Thank you for accepting these comments and the County looks forward to the discussion at the public hearing on the Coastal Hazards LCP Amendment certification application.

Sincerely,



Matt Machado, PE, LS
Deputy County Administrative Officer
Director of Community Development & Infrastructure

Cc: Carlos Palacios, Santa Cruz County Administrative Officer
Santa Cruz County Board of Supervisors
Dan Carl, Central Coast District Director, California Coastal Commission
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