

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV



September 27, 2021

County of Sonoma
Planning Department
Attn: Cecily Condon, Gary Helfrich
2550 Ventura Ave.
Santa Rosa, CA 95403

Subject: County of Sonoma Draft Local Coastal Program Land Use Plan Update: Public Safety Chapter

Dear Ms. Condon and Mr. Helfrich:

Thank you for the opportunity to review and comment on the County's proposed update to the Local Coastal Program (LCP) Land Use Plan (LUP). We want to thank the staff involved in this update for their hard work, and for coordinating with us during this process. In our experience, this type of early coordination helps to ensure a smoother LCP certification process, including streamlining review and resolution of issues upon submittal to the Coastal Commission. We anticipate this letter to be the first of several as we provide in-line edits and comments on each chapter. The comments and recommendations below summarize the overarching feedback on Chapter 7: Public Safety.

The list below is intended as a complement to the in-line edits and comments provided for the Public Safety Chapter but is not exhaustive of every comment and edit included. Therefore, edits and comments in the chapter itself should be treated as the primary source of feedback, with this letter serving as guidance containing some of the major themes of our recommendations. We anticipate discussing these issues in more detail during staff-to-staff coordination meetings with Sonoma County staff:

1. **Redevelopment.** The Public Safety chapter uses three related terms to describe redevelopment: *redevelopment*, *coastal redevelopment*, and *blufftop redevelopment*, only the latter of which is defined. To avoid confusion regarding this term, we would strongly recommend using only one term (either "redevelopment" or "coastal redevelopment"), which should measure redevelopment from the effective date of the Coastal Act (January 1, 1977). "Existing development" should also be defined as development that was in existence prior to passage of the Coastal Act. (See Policies and Objectives: C-PS-1g, C-PS-2i, C-PS-2m, C-PS-1, C-PS-4; Pages: PS-13, 14, 32).

Below is sample language for the definition of redevelopment, per the 2021 certified Half Moon Bay LCP:

Redevelopment" means alteration, demolition, or replacement of 50 percent or more of the major structural components of any structure or an addition of 50 percent or more to the floor area of such structure. Incremental changes that cumulatively amount to

replacement of 50 percent or more over time shall also be considered redevelopment. In all cases, policies that apply to “new development” shall also apply to “redevelopment.” (California Code of Regulations Section 13252(b) and California Coastal Commission 2015 Sea Level Rise Policy Guidance).

2. **Acceptable Risk.** “Acceptable risk” and “acceptable level” are mentioned frequently in the Public Safety chapter as a standard by which to allow development, however, the “Determination of Acceptable Risks” section does not require that “acceptable” classification should require the applicant to provide evidence that the development would not cause substantial adverse impacts on coastal resources, as is required by policy C-PS-1e. The County should explicitly define this term as stated or define what is *acceptable* under each of the varying scenarios rather than relying on this vague terminology. (See Policies and Objectives: C-PS-1e, C-PS-2.1, C-PS-2f, C-PS-2h, C-PS-3.1, C-PS-3g, C-PS-4.1, C-PS-4.2, C-PS-4.5, and C-PS-5.2).
3. **Redevelopment in Unique Circumstances.** We recommend the County consider adding a policy to complement Policy C-PS-2k that addresses the prospect of redevelopment in unique situations where properties cannot be adequately or safely setback or are already occupying lands in the public trust. Alternatively, the County could add a policy that allows development within the 100-year setback, provided that development is minimized and set back to the extent possible, with an absolute minimum setback defined, and combined with removal conditions. This approach assures development is safe for a limited number of years, less than the full 100-year life the policies would otherwise require, with assurances that should the development be imminently threatened the owner is required to accept liability and assure removal.
4. **Shoreline Protective Devices.** Specific policies on Shoreline Protective Devices need to be added to complement Objective C-PS-2.3 which describes minimizing the need to construct shoreline protective devices including defining when such devices are allowed and incorporating related policies on required monitoring, mitigation, and allowable duration for such devices. Sample language from the 2021 certified Half Moon Bay LCP is included below:

7-28. Shoreline Protective Device Limitations...*Shoreline protective devices shall be permitted only to serve a coastal-dependent use or to protect an existing structure in imminent danger from erosion (i.e., when substantial evidence indicates that the structure will be significantly damaged by coastal flooding or erosion hazards within two to three storm cycles, or approximately three years); when found to be the least environmentally damaging feasible alternative (e.g., if relocation or soft armoring approaches cannot mitigate the hazard); and when all coastal resource impacts are appropriately and proportionally mitigated.*

7-20. Redevelopment Standards. *Redevelopment in areas subject to shoreline hazards shall not be approved unless the entire structure meets the current standards for new development, including beach or blufftop setback requirements, based on an up-to-date, site-specific shoreline hazards evaluation. If the structure proposed for redevelopment is protected by a shoreline protective device, require the device to be removed and the site*

to be restored as a condition of redevelopment.

In addition, language from the Coastal Commission's draft Coastal Adaptation Planning Guidance for Residential Development is provided here as guidance for reframing Policy C-PS-2m which currently describes the authorizing the removal of a shoreline protective device after a structure has been removed.

F.6 Shoreline Armoring Duration. *Shoreline protective devices shall only be authorized until the time when the existing principal structure that is protected by such a device: 1) is no longer present; 2) no longer requires armoring; or 3) is redeveloped. Permittees shall be required to submit a coastal permit application to remove the authorized shoreline protective device within six months of a determination that the shoreline protective device is no longer authorized to protect the structure it was designed to protect because the structure is no longer present or no longer requires armoring and the device is not needed to protect adjacent development that is still entitled to shoreline armoring. In the case of redevelopment, any potential rights to protection are terminated and removal of the shoreline protective device shall be required as part of demolition and alteration of the structure being redeveloped.*

5. **Hazards-Related Conditions of Approval.** Several policies including Policies C-PS-1e, C-PS-2g, C-PS-4i (which provide xxx, xxx, and xxx, respectively) are missing key elements regarding deed restrictions, risk disclosure, no future armoring requirements, and future adaptation/removal language. Please at a minimum add these as required conditions of approval for *all* coastal development permits that may be subject to shoreline hazards. The County should also include a general policy or policies requiring assumption of risk for hazardous development based on the language contained in the draft Coastal Adaptation Planning Guidance for Residential development:

As a condition of coastal permit approval for new development in an area subject to current or future hazards, applicants shall be required to acknowledge and agree, and private applicants must also record a deed restriction on the property to acknowledge and agree [modify following list as necessary to address specific case]: 1) that the development is located in a hazardous area, or an area that may become hazardous in the future; 2) to assume the risks of injury and damage from such hazards in connection with the permitted development; 3) to unconditionally waive any claim of damage or liability against Sonoma County, and Coastal Commission, if permit is appealed, its officers, agents, and employees for injury or damage from such hazards; 4) to indemnify and hold harmless Sonoma County, and Coastal Commission, if permit is appealed, its officers, agents, and employees with respect to approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; 5) that they have no rights under Coastal Act Section 30235 and related LCP policies to shoreline armoring in the future; 6) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; 7) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit

encroachment onto public trust land; 8) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and 9) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to [insert LCP policy specifying adaptation planning requirements (i.e., Model Policy B.2 Removal Plan Conditions for New Development in Hazardous Areas)].

Sample language from the 2021 certified Half Moon Bay LCP provides a helpful example of effectively incorporating the draft residential guidance excerpted above into a policy:

***7-18. Assumption of Risk.** As a condition of approval for all coastal development permits that may be subject to shoreline hazards, require a deed restriction to ensure that property owners understand and assume the risks, and mitigate the coastal resource impacts, of new development and redevelopment in a hazardous area. Recorded assumptions of risk shall include a waiver of claim of damage or liability against the City of Half Moon Bay, waiver of rights to future shoreline armoring, acknowledgement that the development may need to be removed and the site restored in response to future hazard conditions, and any other acknowledgements and mitigation measures necessary to internalize risk decisions. In the event that development is threatened by shoreline erosion or other hazards and needs to be removed or relocated, the owner shall bear full responsibility for all costs and must work with the City to implement the mitigation in a timely manner.*

6. **Siting and Designing Development.** The siting and design policies for blufftop development and development in areas at risk of flooding and/or sea level rise impacts should be strengthened. Edits made to Policies C-PS-1e, C-PS-4d, and C-PS-4e (xxx-briefly summarize what these do in case numbering changes) should be incorporated to ensure Coastal Act consistency.
7. **Best Available Science.** "Best available science" is referenced multiple times in this chapter and should be defined. On a policy-specific basis, when possible, details should be given as to the source and quality of the science. Sample language for describing the best available science for coastal hazards and sea level rise is shown below:

The best available, up-to-date scientific information about coastal hazards and sea-level rise shall be used in vulnerability assessments, the evaluation of coastal development permit applications that present hazard risks, and the preparation of technical reports and related findings. Analyses shall include multiple sea-level rise scenarios, one of which is a worst-case "high" projection for the planning horizon or expected duration of the proposed development [insert the minimum anticipated duration of development, e.g., (minimum 100 years unless otherwise specified)], based on best available scientific estimates of expected sea-level rise at the time of the analysis. Sources of information may include, but shall not be limited to, state and federal agencies, research and academic institutions, and non-governmental organizations, such as the California Coastal Commission (CCC), Ocean Protection Council (OPC), National Oceanic and Atmospheric Administration (NOAA), the National Research

Council, and the Intergovernmental Panel on Climate Change.”

8. **Flood Risk.** Policies in Section 4.2 “Regulatory Setting” do not appear to address areas subject to SLR flood zones aside from those that are located in FEMA flood zones. Flood hazard zones as defined by the FEMA Flood Insurance Rate Maps do not include consideration of sea level rise, and so will not ensure the safety of development over its anticipated lifetime as sea levels rise. As such, additional consideration should be given to incorporating policies to address areas at risk of flooding from sea level rise.

Finally, we want to re-iterate some general comments from the “County of Sonoma Draft Local Coastal Program Land Use Plan Update” letter sent to Sonoma County from North Central District Manager, Stephanie Rexing, on July 23, 2021. These comments are not specific to only the Public Safety Chapter but are generally applicable to the entire document, as well as this chapter, and should be incorporated.

- **Organization and Clarity:** To improve organization and clarity each section should contain the implementation programs that pertain to their chapter. In addition, consider changing the format of the document so that chapter numbers align with their policy numbers
- **Coastal Act Policies:** Include all applicable and relevant Coastal Act policies and reference such policies in full.
- **Referencing External Documents:** The LUP should be drafted as a standalone document rather than including references to numerous external documents on which the policies rely (See Program C-PS-3 and Policies C-PS-2a thru 2d.).
- **Policy Language:** Consider changing policy language like “encourage” or “consider” in policies as the use of this type of terminology will make these policies not actionable.

Again, we thank you for your efforts to-date on the update to the LUP, and we look forward to continued coordination toward this end.

Sincerely,

Peter Benham

Peter Benham
Coastal Planner
North Central Coast District Office
California Coastal Commission