

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
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March 28, 2005

San Mateo County Board of Supervisors
Hall of Justice and Records
400 County Center
Redwood City, CA 94063

ATTN: George Bergman

RE: Midcoast LCP Update Comments for March 29, 2005 Board Meeting

Honorable Board Members:

We appreciate the opportunity to comment on the County's Midcoast LCP Update project. This letter is to address the specific LCP topics included in the agenda for the March 29, 2005 Board of Supervisors meeting. We have also submitted three other letters dated January 25, 2005 (general concerns) and February 16, 2005 (February 15, 2005 agenda issues), and March 7 (March 8, 2005 agenda issues).

Annual Growth Limit

In order to certify the proposed Midcoast LCP update, the Coastal Commission is required to determine that the updated LCP would be consistent with and adequate to carry out the coastal resource and public access protection policies contained in Chapter 3 of the California Coastal Act. Two of the key Coastal Act policies concerning planned growth in the coastal zone are Sections 30250 and 30254. Coastal Act Section 30250 requires new development to be located in areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Section 30254 states, in part:

Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor serving land uses shall not be precluded by other development.

Substantial improvements to the Midcoast's transportation, water supply, and wastewater systems are needed to meet existing demand in the San Mateo Midcoast and the City of Half Moon Bay. Public services shortfalls in the Midcoast and Half Moon Bay have resulted in significant adverse effects to public health and safety, coastal resources, and coastal access, including failed wells, sewage overflows, and severe congestion on the major coastal access routes.

At this time, it appears that the improvements to the areas' water supply and wastewater systems needed to adequately serve existing, let alone future, development are not likely to be provided for several years, and that even with improvements, the region's highway capacity will continue to fall further behind demand. According to the City/County Association of Governments of San Mateo County (C/CAG) Countywide Transportation Plan 2010, Adopted January 18, 2001:

The most significant increases in congestion from 1990 to 2010 will occur in the Northern 1 and Western 92 corridors. Northern 1 will increase by 197 percent, while Western 92 will increase by 218 percent. These increases are due to anticipated levels of new development on the Coastsides and the continued pattern of Coastsiders out-commuting to jobs in San Francisco and the Bayside.

The model projects that in 2010 the most congested corridor will be Western 92 as expressed in V/C ratios.

One of the measures that the County Planning Commission has recommended to your Board to address the issue of inadequate infrastructure is to reduce the annual growth limit to 1%. Commission staff is supportive of the proposal to reduce the rate of growth in the Midcoast in order to allow additional time for needed infrastructure improvements, however, it is not evident how the proposed 1% growth limit would ensure that future development would be in phase with infrastructure capacity. It is also unclear why the amended growth limit policy would not apply in Princeton, which is omitted as an urban area subject to annual growth limit allocations (Policy 1.22b), and is mentioned in Policy 1.22d as an area where caretaker's and mixed-use units are excluded from the definition of new dwelling units and hence not controlled by the annual growth rate.

Additionally, we do not agree that affordable housing units and second units should not be counted under the annual growth limit. State law requires local governments to provide incentives to encourage the development of affordable housing and to streamline the permitting process for second units, but these laws do not exempt affordable housing or second units from the requirements of the Coastal Act or any applicable LCP. The public services demands and the impacts to coastal resources and public access of both affordable housing and second units should be accounted for and addressed in the updated LCP.

In order to review the proposed growth management policy for conformity with Coastal Act Sections 30250 and 30254, we recommend that the County provide a quantitative analysis evaluating whether the proposed annual growth limit would direct development to areas with adequate infrastructure and demonstrating that residential development would not consume public services capacity necessary to support priority land uses, including visitor-serving commercial recreational facilities and agriculture.

Further analysis should also be conducted to ensure that the definition of urban area matches with areas already developed or areas reasonably planned for urban development where services are available or planned. The defined urban area should not include areas that may have services

but are not suitable for urban development due to the presence of sensitive habitats, wetlands, prime agriculture lands, or hazards.

We have the following comments for the specific sections of the proposed amendment to LUP Policy 1.22:

LUP Policy 1.22.a

- Clarify that community infrastructure matches definition of public works for purposes of maintaining consistency with the Coastal Act and other certified LCP policies and establishing Coastal Commission appeal jurisdiction.
- Clarify that 52 units is a maximum number used to guide policy and planning efforts and not an entitlement. Coastal resource protection policies and policies requiring adequate infrastructure to serve new development are still in effect and will be a standard in reviewing new development proposals.

LUP Policy 1.22.b

- Instead of using relative number of vacant parcels to determine the allocation of new dwelling units among the various urban areas in the Midcoast, we recommend basing the allocations on the availability of adequate infrastructure, proximity to sensitive resources, hazards, and open space areas. Development should be directed to infill areas and on vacant legal lots in existing neighborhoods with available public water and sewer service and improved streets, outside of sensitive resource, open space, and hazard areas.

LUP Policy 1.22.c

- Clarify that in the case of extenuating circumstances, the Board may suspend the allocation requirement for one community provided that other communities' allocation would not increase.

LUP Policy 1.22.d

- The state law requirements promoting development of affordable housing and second units do not override or exempt such development from the requirements of the Coastal Act, including the above-cited requirement that new development is located in areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. As such, while the LCP may include policies that give preference to affordable housing and second units over other residential development, the LCP is required to address and plan for the public service demands of affordable housing and second unit development along with all other development in the Midcoast planning area. Commission staff does not support the proposed exclusions from the annual growth control for affordable housing, second units, and caretaker's and mixed-use units in Princeton.

Land Uses on Devil's Slide Bypass Land

Commission staff supports the Planning Commission's recommendation to rezone portions of the CalTrans surplus Devil's Slide bypass right-of-way from residential to open space, COSC and the corresponding LCP amendments in the Coastal Trail section that identifies a trail through this areas. We recommend that the County, through the Parks and Recreation Division, develop more detailed plans on future use and management of the CalTrans property consistent with the open space designation. We also suggest that instead of encouraging CalTrans to voluntarily merge the lots within the right-of-way, the County, to the extent allowable under the Subdivision Map Act, undertake merger of these lots.

Highway 1 Pedestrian Improvements

Commission staff supports the Planning Commission's recommendations with respect to Highway 1 pedestrian improvements, especially the requirement for CalTrans Highway 1 improvement projects to develop adjacent pedestrian access and/or grade separated pedestrian crossings. We suggest that the County consider broadening the requirement to include the development of a parallel pedestrian/bicycle/multipurpose trail as part of any new CalTrans Highway 1 project to encourage the use of bicycles and alternative modes of transportation and ease congestion in the region.

Coastal Trail Policies

The proposed change to LCP Policy 11.13.b.1 anticipates that the Coastal Conservancy would take the lead in planning the Coastal Trail. While the Coastal Conservancy provides funding and guidance on trail planning, the local government is still responsible for plotting the specific route, applying for funding, and designing different segments of the trail. We recommend that the County develop more detailed Coastal Trail policies to support the planning and development of the Coastal Trail in the Midcoast.

County Responses to LCP Assigned Tasks

Commission staff supports the Planning Commission's recommendations to direct staff to complete in a timely manner partially completed responsibilities assigned by existing LCP policies. One of the tasks listed in the April 28, 2004 County staff report as "completed" is the monitoring of wells. This task should not be considered complete until, at minimum, the Midcoast groundwater study produces a final report and the County has developed a plan to implement the study's recommendations. Substantial additional information is required to evaluate the adequacy of the LCP in managing groundwater resources.

With respect to the task of increasing transit use, in addition to collaborating with SamTrans in planning a park and ride facility, we believe that more needs to be done to improve transit development in the Midcoast. For instance, the County should consider increasing or reallocating existing development fees to fund transportation system management measures recommended in the Countywide Transportation Plan.

Commission staff supports the reestablishment of the Coastal Access Acquisition and Development Fund.

Codify Coastal Act Sections as LCP Policy

Commission staff recommends that the County codify Chapter 3 policies of the Coastal Act as general policies of the LCP. The conflict resolution policy recommended by the Planning Commission however should not be included in the County's LCP update. The attached letter from North Central Coast District Manager, Chris Kern to the County Planning Commission dated September 22, 2004 explains the legal basis of our concerns with this policy and contains our recommendations to the Planning Commission to delete the policy from the LCP update. We would like to reiterate that pursuant to Public Resources Code Section 30007.5, the authority to resolve conflicts between Chapter 3 policies of the Coastal Act is granted only to the Coastal Commission and may not be delegated to local governments. As such, we strongly recommend that the Board remove Policy 1.3 from the proposed LCP update.

LCP Policy Conflicts/Ambiguous Provisions

Visual Resources

Commission staff does not support the proposed changes to Policy 8.5. We believe that the policy, as written, is intended to protect scenic and visual resources in both urban and rural areas. The proposed change would not serve to clarify the policy but instead would substantially weaken the LCP visual resource protection standards. Any proposed change to this policy should be supported by an analysis of whether the change in this visual resource protection standard would be consistent with Section 30251 of the Coastal Act.

Policy 1.14

With respect to the proposed corrections to Policy 1.14, the County's staff report does not contain the proposed changes to the policy language. Please indicate the proposed changes to this policy in underline and ~~strike through~~ format.

Agricultural Lands

We support the County's proposal to designate prime agriculture land and land suitable for agriculture in urban areas as agriculture on the Land Use Plan Map.

Prospect Drilling and Oil and Gas Wells

Oil and gas development in any location within the County's coastal zone would conflict with numerous coastal resource protection policies of the LCP. Oil and gas development is required to be permitted under the Coastal Act only when the criteria specified in Coastal Act Sections 30260 and 30262 can be met. Consistent with these Coastal Act policies, the Commission staff

recommends that the County revise the LCP to prohibit oil and gas development in all areas except where all of the following criteria are met: (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; (3) adverse environmental effects are mitigated to the maximum extent feasible, (4) the development is performed safely consistent with the geologic conditions of the well site; (5) the development will not cause or contribute to subsidence hazards unless it is determined that adequate measures will be undertaken to prevent damage from such subsidence; and (6) all oilfield brines are reinjected into oil-producing zones unless the Division of Oil and Gas of the Department of Conservation determines to do so would adversely affect production of the reservoirs and unless injection into other subsurface zones will reduce environmental risks. Exceptions to reinjections will be granted consistent with the Ocean Waters Discharge Plan of the State Water Resources Control Board and where adequate provision is made for the elimination of petroleum odors and water quality problems.

Sensitive Habitats Component

The County decided in 2004 to delay action on updating the policies of the LCP Sensitive Habitats Component. We look forward to working with the County on this important next step in the LCP update process.

We greatly appreciate this opportunity to comment on the County's LCP update process. Please contact Chris Kern or me at (415) 904-5260 with any questions.

Sincerely,

YinLan Zhang
Coastal Program Analyst
North Central Coast District

cc: City of Half Moon Bay
MidCoast Community Council
Coastside County Water District
Montara Water and Sanitary District
Granada Sanitary District
Committee for Green Foothills

Enclosure: September 22, 2004 Letter from Chris Kern to San Mateo County Planning Commission