

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400



December 2, 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 December 6, 2005 Board Meeting

Honorable Board Members:

Thank you for resuming hearings on the Midcoast LCP update and providing this opportunity to comment on the items that will be presented at the December 6, 2005 hearing. Commission staff greatly appreciates your extensive efforts in moving this important update forward.

In 2000, the Coastal Commission granted the County \$40,537 to support key elements of the LCP update project. Tasks for which the County received funding included the preparation of an alternatives report, hosting community workshops, and preparation of the final LCP amendment text. As a condition of this grant, the County agreed to develop a strategy for the acceptance of outstanding offers to dedicate public access easement, and to adopt new LCP policies to identify, prevent, and control non-point source pollution.

Commission staff is encouraged by the significant progress you have made over the past five years on the update that have resulted in the Planning Commission's final recommendations earlier this year and four Board hearings on the project.

As you are aware, the LCP is the County's local implementation of the California Coastal Act. As such, the LCP should address the unique characteristics and coastal resources in the region consistent with the goals and policies of the Coastal Act. Section 30108.6 of the Coastal Act defines an LCP as "a local government's land use plans, zoning ordinances, zoning district maps, and, within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of [the Coastal Act] at the local level." Accordingly, any amendments to the LCP Land Use Plan must conform with and be adequate to carry out the coastal resource and public access protection policies contained in Chapter 3 of the Coastal Act.

Some of the key Coastal Act policies for the San Mateo County Midcoast include:

Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30250 Location; existing developed area

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30254 Public works facilities

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. 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.

Section 30255 Priority of coastal-dependent developments

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

These Coastal Act policies require that new residential development and other non-coastal dependent land uses be located in areas with adequate infrastructure and where they will not interfere with the public's right to access the coast, consume infrastructure capacity required to support coastal dependent priority uses, or adversely affect the scenic and natural resources of the coastal zone.

Growth and infrastructure are the most significant planning issues facing the Midcoast and have been the central themes in the Commission staff's prior comments on the Midcoast LCP update project. Our chief concern regarding infrastructure planning is the constraint posed by very

limited roadway capacity. The Countywide Transportation Plan and related studies show that the current volume of traffic on Highways 1 and 92 exceeds their capacity and that even with substantial investment in transit and highway improvements, congestion will only get worse in the future. As a result, the level of service on the highways at numerous bottleneck sections is currently and will in the future continue to be rated as LOS F. LOS F conditions are currently experienced at certain intersections and at bottleneck sections of both highways during both the weekday PM peak-hour commuter period and during the weekend mid-day peak.

The most recent Countywide Transportation Plan predicts far greater congestion on the Highway 1 and 92 corridors by 2010, stating, "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...The model projects that in 2010 the most congested corridor will be Western 92 as expressed in V/C ratios." (C/CAG 2001). This report serves to corroborate and underscore the findings of all of the previous traffic studies conducted in the region over the past three decades that Highways 1 and 92 in the Midcoast Region are not adequate to serve either the current or the expected future demands of development.

While adding highway capacity where feasible is an important aspect in addressing the area's inadequate transportation system, a more effective and key component of this solution is to reduce the total demands on the highways because the potential to significantly improve Highways 1 and 92 are extremely limited, and can not feasibly be expanded to adequately serve demand.

The Coastal Commission, in previous actions on proposed developments in Half Moon Bay, such as the Pacific Ridge and Beachwood subdivisions, have found that congestion on Highway 1 and 92 significantly impedes the public's ability to access the coast, that congestion could not be feasibly reduced through road improvement alone, and that new development that would increase demand on the highways must offset those impacts by reducing overall demand levels at buildout by retiring existing development rights in the region.

Commission staff recommends that in addition to seeking improvements to the region's transportation system, the County also implement aggressive transportation demand management measures to reduce demand on the highways. We suggest that the County consider the following approaches to reduce future transportation system demand in the Midcoast:

- Prohibit new subdivisions until such time as there is adequate infrastructure capacity to support such development.
- Require traffic impact mitigation fees for all new development to be used to establish a purchase of development rights program and to implement other transportation demand management (TDM) measures.
- Implement a mandatory lot-merger program for all substandard lots.

Commission staff comments regarding the specific Subcommittee recommendations are below.

1. Residential Buildout Estimate

As previously provided in our February 16, 2005 comment letter, we recommend that the LCP language clarify that the buildout estimates are the planned theoretical maximum buildout of the community, assuming consistency with all other LCP policies. The LCP should acknowledge that the buildout estimates may not account for the reductions in density that consistency with other LCP policies may dictate given the constraints of any given parcel (e.g. the presence of sensitive habitats, steep slopes, significant views, etc.), and are therefore not an entitlement to a particular density or intensity of development.

2. Infrastructure Demand at Buildout

Sections 30250 and 30254 of the Coastal Act govern new development and infrastructure planning and have very specific requirements regarding locating new development and how infrastructure should develop to accommodate existing needs and growth. 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 provides that public works facilities shall not be expanded in a manner that would induce growth which cannot be accommodated by infrastructure and that where public works facilities can accommodate only a limited amount of new development, infrastructure capacity for priority land uses shall not be precluded by other uses like residential development. Accordingly, the LCP update should develop land use policies that holistically address growth and infrastructure planning to ensure that growth is directed to areas with adequate public services, that all types of infrastructure development are in phase with each other and with growth so that new development does not overburden infrastructure and cause adverse impacts to coastal resources, and that sufficient capacity is reserved for priority coastal dependent land uses.

As discussed above, the issue of growth and infrastructure capacity has been the focus of our past comment letters, and we would like to continue to work with the County to address this difficult issue. Tackling this issue would not only require developing additional infrastructure capacity, but also significantly reducing overall buildout levels by prohibiting new subdivisions, merger of substandard lots, and implementing purchase and/or transfer of development rights programs and other TDM measures.

As for the Subcommittee recommendations, we are encouraged by the principle adopted by the Board that states new development in the urban Midcoast should be served by public water and sewer rather than individual wells and septic systems. To effectively achieve this goal, the County should amend its current categorical exclusion order to clarify that development that is not supported by public water and sewer services is not exempt from coastal development permitting requirements. The LCP should be amended to prohibit new private wells in the urban Midcoast. Finally, the County should work with the two water districts to develop a program with incentives encourage residents currently on wells to connect to the public water system.

While CCWD and Montara Water and Sanitary District have indicated to the County that they believe they will be able to provide sufficient water supply capacity to serve the demand

anticipated at buildout, it is incumbent on both the County and the Commission in carrying out our duties under the Coastal Act to carefully evaluate these claims. At this point, there appear to be significant unresolved issues concerning the feasibility of providing the additional water supply capacity needed to meet the demand that would be generated by the level of development provided for under the City of Half Moon Bay and County Midcoast LCPs. As such, the LCP should include policies that ensure that development will not be undertaken in areas without adequate public water service.

In terms of sewer capacity, while it appears there is sufficient treatment capacity to serve the Midcoast at buildout, significant collection and transmission capacity shortfalls have led to wet weather overflows that pose serious environmental and public health risks. According to the Granada Sanitary District, member agencies of the Sewer Authority Midcoastside have made significant investments to improve sewer collection and transmission facilities over the past several years to prevent wet weather overflows. However, wet weather overflows have remained a serious problem despite these improvements, and the District is very concerned that there will not be adequate sewer collection and transmission capacity to serve buildout and that more wet weather overflows would result if demand reaches projected buildout levels. The updated LCP should specifically address this issue in a manner that meets the requirements of the Coastal Act, including Sections 30211, 30230, 30231, 30250 and 30254.

With respect to the transportation system, we must note that the 2010 Levels of Service (LOS) for Highways 1 and 92 included in the staff report are referenced from the "Countywide Transportation Plan Alternatives Report" prepared by C/CAG in 1997, which determined that Highways 1 and 92 would reach LOS F at numerous bottleneck sections *even with all feasible transportation system improvements* that have a reasonable chance of being completed, including all likely improvements to Highways 1 and 92. Based on the C/CAG study, even with all reasonable roadway improvements, the levels of service on Highways 1 and 92 would be at F on many bottlenecks during the weekday commute and weekend recreational peak hours.

The Subcommittee has recommended widening of Highway 1 to four lanes in the urban Midcoast to help address the shortfalls in the area's transportation system. However, it is not evident whether this proposal would be adequate to provide acceptable levels of service on Highway 1. Of course, widening Highway 1 would do nothing to address and may even exacerbate congestion on Highway 92. It is also unclear at this time how such a project would be funded and whether the proposed widening could be carried out consistent with the resource protection policies of the Coastal Act. These issues should be more thoroughly evaluated in order to determine to what extent improvements to Highway 1 would help to meet existing and future transportation demands.

3. Residential Growth Rate Limit

Commission staff supports the proposal to reduce the rate of growth in the Midcoast in order to allow additional time for needed infrastructure improvements and the Subcommittee's recommendation to not exempt mixed use and caretaker's units in Princeton from the annual limit.

However, 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 on coastal resources and public access of both affordable housing and second units should be accounted for and addressed in the updated LCP.

Although not proposed as an amendment, the Commission staff appreciates the County's efforts to interpret Section 6500 of the Zoning Code to provide new facilities that would benefit public health, safety, and welfare. However, Commission staff would not support an interpretation of Section 6500 that would allow residential and commercial development where they are currently prohibited.

4. Lot Merger

In light of the importance to reduce growth to more closely match the present and future capacity of the regions transportation system and other infrastructure, the Commission staff strongly supports the Planning Commission's proposal to undertake a comprehensive mandatory lot merger program.

5. Nonconforming Parcel Development Controls

Commission staff supports the Planning Commission's recommendation to implement the proportionality rule on non-conforming parcels which would reduce house sizes on small, substandard lots and provide an additional incentive for lot mergers.

It is unclear how the proposed 200-square foot floor area bonus would serve as an effective incentive to promote development of affordable housing.

6. Residential Uses in Waterfront District

In order to reduce demand for services, we recommend that the updated LCP prohibit residential development, including caretaker's units in the Waterfront District. The Commission staff does not support any proposed increases in the permitted number of caretaker's units in the Waterfront District since it could potentially impact priority coastal dependent land uses currently within the district.

7. Residential Uses in the COSC District

Commission staff supports prohibiting residential development in the COSC district as recommended by the Planning Commission. Staff does not support the proposed zoning change for 5.25 acres in the Burnham strip from COSC to RM/CZ. RM/CZ zoning allows more intensive land uses such as multi-family residences, hotels, and other uses. There is a significant need to provide parking and other facilities to serve Surfer's Beach at this area. Such uses are

consistent with the existing COSC zoning. The proposed rezoning to allow more intensive non-priority development in this area would conflict with the aforementioned Coastal Act policies concerning infrastructure capacity, coastal dependent priority land uses, and coastal access.

8. Increasing Commercial and Employment Opportunities

Commission staff strongly supports the County's efforts to promote business development in the Midcoast. Consistent with the recommendations of the Countywide Transportation Plan, such measures are important to reducing traffic congestion by helping to correct the Midcoast jobs/housing imbalance. In addition to encouraging commercial, retail, office, industrial and other employment generating development, we believe that the equation in balancing jobs and housing must also include reduced residential development. Thus, we suggest that the County consider rezoning undeveloped residential areas to non-residential and/or mixed use zoning districts. Furthermore, to reduce vehicle dependency and non-commute related traffic, the County should consider rezoning existing residential districts to mixed-use and encourage neighborhood serving commercial developments to reduce local vehicle trips.

9. Development Controls in the AO District

The proposed reduction to the Airport Overlay Zone to permit residential development and to increase the density and intensity of development in this area raises numerous issues under the Coastal Act. The County should provide an analysis of how the zoning amendment would change the density and intensity of use and describe the site-specific development potential and constraints of the specific parcels that would be affected by the proposed change to the AO Zone. Any proposal to rezone this area to provide for increased development must be supported by an analysis of the resulting public safety, coastal resource, agricultural, and public access impacts. The analysis should address how any increases in density and intensity of the permitted land use would be consistent with the public safety, public access, open space, sensitive habitat, wetland, agricultural, and visual resources policies of the certified LCP, and how development permitted under the zoning change would be adequately served by transportation, sewer, and water infrastructure.

10. Traffic Mitigation Requirements

As Commission staff has previously commented, mitigation should be required for the traffic impacts of all development and not just projects that would generate 50 or more peak hour trips or require CEQA review as proposed. The greatest traffic impacts in the Midcoast arise from the cumulative impact of individual single-family residences, which for the most part are exempt under CEQA. As such, the proposed traffic mitigation policy would not address the impacts of the biggest source of traffic congestion in the region. We recommend that all new development that contributes to transportation infrastructure demand, regardless of scale, provide traffic impact mitigation by: (1) reducing demand for future capacity and (2) to the extent feasible increasing transportation system capacity. Furthermore, as discussed above, it is currently unclear how the proposed changes to Policy 2.50 would result in an acceptable level of service at buildout

11. Development Controls in Midcoast RM-CZ and PAD Districts

Commission staff supports deleting timber harvesting, surface mining, oil and gas exploration and solid waste facilities as permitted uses in RM-CZ and PAD zoning districts. Commission staff also supports reduced height limits and establishing size limits for residential development in the rural zoning districts. However, we recommend that the County conduct further analysis of whether the proposed R-1/S-17 zoning district development standards would be appropriate for the rural areas and consistent with the visual resources policies of the certified LUP. County staff's analysis does not appear to relate the proposed floor area and height restrictions to the scale or character of existing development within the affected areas. An accurate and complete description of the character, size, and scale of the existing development and landforms in the affected areas is required to assess whether the proposed floor-area and height limits are compatible with the character of the surrounding area and are related in size and scale to adjacent buildings and landforms. The Commission staff will require such information as a part of the County's LCP amendment application for the LCP update and we strongly encourage the County to conduct this analysis prior to taking final action on the update project.

12. Rural Residential Areas

Commission staff supports the Planning Commission's recommendation to redesignate areas currently Rural Residential but not served by public water and/or sewer as Rural. The analysis by Mr. Recht regarding feasible use on the affected properties by the proposed land use changes is unclear and does not seem to support the Subcommittee's recommendation to maintain the status quo. It seems that currently, residents are already aggregating multiple lots to construct residences on septic and wells, and as such, the proposed land use designation would not affect this pattern of use in the area but would promote lot merger and reduce buildout levels, and create a logical urban/rural boundary that delineates the urban services line according to where services are actually available.

13. CalTrans Devil's Slide Bypass Property

Commission staff recommends that the Board move forward with re-designating the property from medium density residential to COSC and prohibit residential development on COSC to facilitate future public use of the property for low-intensity recreation. CalTrans' decision regarding the property should not affect the timing of the County's actions because the Planning Commission's recommended actions would not conflict with future use of the site for public recreation. Regulatory "Takings" is not an issue for publicly owned property such as this. Furthermore, the property is currently under single, public ownership, which is an ideal circumstance for merging all of the lots into a single parcel that would facilitate future conveyance to a public agency. We urge your Board to adopt the Planning Commission's recommendation.

14. Impervious Surface Limits and Winter Grading

We fully support the County's efforts to impose controls on impervious surface coverage and winter grading to benefit water quality. We recommend that the updated zoning code make explicit that the impervious surface and winter grading restrictions apply to all development under the LCP.

The proposed impervious surface limits and winter grading prohibitions are important policies for the protection of coastal water quality, but as proposed, these policies would include exceptions that could subvert their intent. As a general practice, exceptions to LCP coastal resource and public access protection policies should only be granted under the limited circumstances where the Board of Supervisors determines that the exception is necessary to avoid a taking of private property. Unless necessary to avoid a regulatory taking, exceptions from LCP resource protection policies should only be allowed when narrowly construed, precisely defined, and with clear criteria to ensure that there is no potential that the exception would result in adverse impacts to coastal resources or public access to or along the coast.

To satisfy the condition of the Commission's LCP Assistance Grant and comprehensively address water quality issues, including non-point source pollution, agriculture runoff, and sensitive aquatic habitats, we recommend that the County add a new chapter to the LUP and adopt corresponding zoning provisions specifically for the protection of water quality.

15. Codify Coastal Act Policies in the LCP

Commission staff recommends that the County codify all relevant 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. We would like to reiterate as stated in our previous correspondence to the County on this topic 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 the proposed amendment to Policy 1.3 from the LCP update.

16. 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.

17. New Midcoast Affordable Housing Policy

The Coastal Act requires the Commission and local governments to encourage the development of affordable housing in the Coastal Zone, while at the same time requiring that policies to achieve this goal are consistent with the Chapter 3 resource protection and public access policies. The proposal to provide water and sewer service capacity that has been reserved for coastal dependent priority uses to affordable housing projects as a means to promote affordable housing development would not be approvable under the Coastal Act unless the County can demonstrate that sufficient infrastructure capacity would remain for Coastal Act priority land uses. As such, the proposed reallocation of water and sewer service capacity from coastal dependent priority uses to affordable housing must be accompanied with a detailed analysis of the anticipated levels of public service demand and capacity for both priority and non-priority land uses as would be provided under the updated Land Use Plan.

We greatly appreciate this opportunity to work with you on this important LCP update. We look forward to continuing to work with the County through the Commission's certification process.

Sincerely,

YinLan Zhang
Coastal Program Analyst
North Central Coast District

Cc: Jack Liebster, City of Half Moon Bay
April Vargas, Committee for Green Foothill
Karen Wilson, MidCoast Community Council
George Irving, Montara Water and Sanitary District
Jonathan Wittwer, Granada Sanitary District