

Andy Newkirk

From: Andy Newkirk
Sent: Wednesday, November 27, 2019 9:03 AM
To: Andy Newkirk
Subject: FW: Comment letter for NZO hearing on 12/3/2019

Original Message-----

From: Carey, Barbara@Coastal [Barbara.Carey@coastal.ca.gov]
Received: Tuesday, 26 Nov 2019, 4:47PM
To: Peter Imhof [pimhof@cityofgoleta.org]; Anne Wells [awells@cityofgoleta.org]
CC: Hudson, Steve@Coastal [Steve.Hudson@coastal.ca.gov]
Subject: Comment letter for NZO hearing on 12/3/2019

Hi Peter and Anne—

Attached is Commission staff's comment letter for the NZO hearing before the City Council next week. Hard copy to follow by mail.

Thank you for your consideration of our comments.

Thanks, Barbara

Barbara Carey | District Manager
California Coastal Commission | South Central Coast District
89 South California Street, Ventura, CA 93001
(805) 585-1800

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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



November 26, 2019

Mayor Perotte and Councilmembers
130 Cremona Drive, Suite B
Goleta, California 93117

Subject: City Council consideration of New Zoning Ordinance

Dear Mayor Perotte and Councilmembers:

I am writing with regard to the City Council's consideration of the City of Goleta New Zoning Ordinance. While it's our understanding that the zoning ordinance would not be adopted as part of a proposed local coastal program (LCP) at this time, it has been indicated by City of Goleta staff that it may be adopted as such in the near future. In recent discussions between our respective staffs, it was indicated that the City may submit the existing Goleta General Plan and the New Zoning Ordinance to the Coastal Commission for consideration as an LCP, with the understanding that staff coordination may occur after submittal.

We would like to request that the City Council consider a revised process for LCP development that would allow for City and Commission staff coordination and City Council adoption of any necessary changes agreed upon by our respective staffs prior to (rather than after) formal submittal of an LCP to the Coastal Commission. Such a collaborative process would allow our respective staffs to work together to most efficiently address and resolve any potential issues relating to consistency between the City's draft LCP and the Coastal Act while minimizing the number of potential suggested modifications by the Commission that might be necessary during the formal certification process.

Local Coastal Programs (LCPs) are comprised of the local government's (1) land use plans, (2) zoning ordinances, (3) zoning district maps and (4) other implementing actions which provide the goals, objectives, principles, standards, maps, and other provisions that direct the physical development and use of land and water that meet the requirements of, and implement the provisions and policies of the Coastal Act. LCPs may be developed in a number of different formats, but typically consist of at least two parts: 1) land use plan (LUP); and 2) implementation program (IP). The standard of review to certify the LUP is consistency with the Chapter 3 policies of the Coastal Act. The standard of review for an IP is that it conforms with and is adequate to carry out the Land Use Plan.

As part of a Coastal Commission LCP grant to the City, there was extensive staff coordination on a draft Goleta Land Use Plan in 2015-2016. This coordination included meetings, phone conversations, and the exchange of written comments and responses between City and Commission staff members. That effort (including a summary of significant issues that needed to be addressed to ensure LUP consistency with the Coastal Act) was addressed in detail in our May 3, 2016 letter which is attached for your information. Unfortunately, many of the previously

identified issues identified by that effort were never addressed or incorporated in the City's draft LUP. As discussed in our May 3, 2016 letter, these changes are necessary in order for the LUP to be found consistent with the Coastal Act. At that time, City staff explained to us that the 2014 Draft LUP primarily reflected the policies of the Goleta General Plan, and that planning staff did not believe it had the ability to agree to substantive changes to the parallel LUP language at a staff level without input from the City Council.

We think there would be great value in further staff coordination on a draft LCP. We recommend that the City Council authorize City staff to coordinate with Commission staff to identify and resolve any potential issues necessary for the LUP to be found consistent with the Coastal Act and a LIP consistent with the LUP. To facilitate this process, we further recommend that the City staff bring the draft LUP and IP back to the City Council for adoption with any necessary changes before they are submitted to the Commission for approval as an LCP. This process will ensure maximum transparency and local public input on the LCP. It will also allow the City Council to consider necessary changes coordinated between City and Commission staff and to narrow areas of disagreement further. Submittal of a revised LCP would allow for more streamlined processing by Commission staff where additional coordination (if necessary) could focus on a much shorter list of remaining issues. This process would greatly increase the likelihood of successful adoption and certification of a City of Goleta LCP that would meet the needs of the City while ensuring consistency with the Coastal Act.

Thank you very much for considering our comments. We would welcome an opportunity to meet with your staff and City Council representatives to further discuss LCP development and staff coordination opportunities.

Sincerely,



Steven M. Hudson
District Director

Attachment: May 3, 2016 letter to Jennifer Carmany, City of Goleta

cc: Michelle Green, City Manager, City of Goleta
Peter Imhoff, Planning Director, City of Goleta
Anne Wells, Planning Manager, City of Goleta
John Ainsworth, Executive Director, Coastal Commission
Barbara Carey, District Manager, Coastal Commission

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May 3, 2016

Jennifer Carman
City of Goleta
130 Cremona Drive, Suite B
Goleta, California 93117

RE: Status of City of Goleta Draft Local Coastal Program

Dear Ms. Carman,

This correspondence is to memorialize the status of the City's Draft Local Coastal Program subsequent to the coordination between our staffs that occurred over the past year as part of the Commission's grant program. The final deliverables for the grant include technical reports, a draft Land Use Plan and a draft Implementation Plan. In fulfillment of the grant, we have received the revised policy charts by topic, which represent the City's progress on the draft Land Use Plan, and we have recently received the City's draft Implementation Plan document.

The Commission's grant required coordination with Coastal Commission staff for the purpose of developing a Local Coastal Program (LCP) for the City of Goleta that fully and adequately implements the provisions of the Coastal Act. In the spirit of coordination, we have collaborated by meeting in person and by phone on numerous occasions to discuss issues related to the draft policies of the Land Use Plan (LUP) (dated December 2014). In addition, we have provided detailed input on all of the original policies by providing a written mark-up of the policies along with specific explanations describing the reasons why the suggested changes to the policy language are necessary to ensure consistency with the Coastal Act. (Rather than attach these comments again due to length, our original comments are being provided to accompany this letter in digital form via a separate email.) As part of our coordination, we have also provided other suggestions to supplement and revise the Figures/Maps and scope of the LUP. Using a similar written format, the City staff responded to our initial policy suggestions by accepting, denying, or further revising the policies. Finally, both staffs have coordinated further (including meetings, phone calls, and written responses) with regard to our initial policy suggestions in an effort to try to reach agreement on Coastal Act policy consistency.

We recognize that it may not be possible to reach complete agreement on all LUP policies or issues; however, the City's latest proposed revisions (received Dec 2015 – Feb 2016) have not addressed the majority of our substantive comments and requested changes necessary to bring the draft LUP into conformance with the Coastal Act. As a result, the LUP, as drafted, is not consistent with the policies and provisions of the Coastal Act. City staff previously indicated that they would continue working to incorporate many of these substantial revisions to certain LUP policies that are necessary in order to comply with the requirements of the Coastal Act, while retaining the format and structure of the City's General Plan policies. However, such substantial revisions were never provided to us and are not included in the final policy charts.

As your staff has explained to us, the LUP primarily reflects the policies of the Goleta General Plan, and planning staff does not believe it has the ability to agree to substantive changes to the parallel LUP language at a staff level without input from the City Council. However, this inability to work on substantive changes to the draft LUP without input from the City Council has significantly limited the effectiveness of the coordination process. As we have discussed previously, there are significant differences between a General Plan and a Land Use Plan. The Coastal Act applies a specific set of land use planning principles and resource protection provisions within the Coastal Zone and requires local governments to reflect those principles and provisions within an LUP in order for the LUP to conform to the Coastal Act. Additionally, the Implementation Plan must conform to and be adequate to carry out the policies of the LUP. This means that the pattern and level of development allowed within the Coastal Zone is likely to be different in some ways from the pattern and level of development that may be allowed by a local government outside of the Coastal Zone. Further, the protection of coastal resources is also likely to be implemented differently within the Coastal Zone.

Based on our review of the most recent version of the LUP policy charts, it is Commission staff's opinion that the current version of the Draft LUP is not adequate to carry out the provisions of the Coastal Act. There are many significant issues that still need to be addressed in order to ensure that the LUP will achieve consistency with the Coastal Act. Even though we are now past the end of the grant timeline, the grant program was intended to support a pre-existing and on-going coordination process and Commission staff is committed to continue that coordination with City of Goleta staff to move closer to resolution of Coastal Act consistency issues. We also believe it is important to recognize that some of the draft policies—for example, the policies related to coastal hazards—are very well done, in that they are crafted to respond to local conditions using the best available science. There is a great opportunity to build upon that work and work toward Coastal Act consistency in the entire LCP. We cannot cover all of the remaining issues in this correspondence; however, some of the overarching issues are briefly characterized below and are described in detail with recommended changes in the separately attached comments that have been previously provided to City staff (between March 2015 – January 2016):

- Archaeological and Paleontological Resources. There are some concerns with regard to the City's approach to protecting archaeological and paleontological resources, primarily: the means of defining the cultural significance of resources that are subject to protection and the interpretation of resource protection to avoid "destruction" or "harmful alteration."
- Energy Facilities. The primary concerns with energy-related development include: regulation of modifications or alterations of the existing Ellwood Onshore Facility beyond what is allowed in the Coastal Act; the implication that oil and gas transportation pipelines must be discontinued; the need for siting and design provisions for pipelines consistent with protection of coastal resources; regulation of State Lease 421 rather than the onshore development; and the elevation of H₂S gas sweetener as a public safety priority that appears to have precedence over other risk of hazards and resource protection.

- Environmentally Sensitive Habitat Areas (ESHA). Some of the primary concerns with the City's approach to ESHA protection include: the methods of identifying or determining ESHA; the size of ESHA buffers; the trigger for ESHA evaluation or studies; the fusion of allowed uses and protective measures for ESHA and ESHA buffer, which are separate concepts; mitigation strategies and ratios; the conflicting language between Streamside Protection Areas (SPAs) and streams protected as ESHA; wetland protection language; the size of wetland buffers; the designation of offshore marine areas as ESHA; development-specific policies (e.g., land divisions, fuel modification, flood control measures, beach grooming, etc.) that are not fully articulated in a manner that ensures protection of coastal resources; internal conflicts regarding language for the protection of native trees and trees within ESHA; and concepts related to ESHA protection that have been recently identified and required by the Coastal Commission have not been included, such as wildlife permeable fencing and bird safe building measures.
- Hazards Related to Sea Level Rise. While staff support the basic intent and structure of many of these policies and appreciate the quality of information that informed the development of these policies, some concerns remain, including: the lack of reference points to explain the genesis of the chosen SLR projections (8.5, 24.1, and 54.5 inches); the lack of clarity regarding implementation of numeric policy triggers; inconsistencies regarding the trigger and scope for site-specific hazard studies; inconsistent restrictions on shoreline protective devices; references to mitigation fees that have not been fully developed; and lengthy policies that include background information that is not essential to implementing the policy.
- Land Use. Most land use policies were reviewed under other relevant topics and therefore comments are embedded into those separate topics rather than under the topic of land use. One overarching concern regarding the land use provisions is that the level of detail in the allowed uses in Tables 2-1 through 2-4 should be deferred to the Implementation Plan / Zoning Code. Other minor items are pending additional coordination.
- Public Access. Some concerns with regard to public access planning include: the need for policies that protect lower-cost visitor-serving overnight accommodation; the potential interpretation of policies to allow for barriers to access, including physical and regulatory barriers; potential residential parking programs and unspecified timing restrictions on public accessways and coastal parking areas; the need for clarifications and refinements regarding methods, timing, and management of access easements; reliance on using the State Lease 421 road as a key component for access even though it must be removed when the lease is abandoned; the need for accurate and appropriate internal cross-references to coastal access and recreation maps; the need for restructuring this LUP section to ensure that policies are broadly applied to protect, maintain, and maximize public access, rather than applied only under specified circumstances; inconsistent guidance on whether beach and bluff trail alignments are proposed; the need to add measures to address temporary events and temporary use of beaches; and the intended applicability of trails and open space policies.

- Public Facilities. Some concerns with regard to public facilities planning include: preauthorization of specific public works projects that have not yet been evaluated or approved pursuant to a coastal development permit; the potential siting of new development where adequate public facilities may not exist; the need for additional language to link capacity planning for public works facilities to certified buildout in the Coastal Zone; the use of various types of permits (other than a CDP) to implement the LCP which affects timing, triggers, and sometimes the ability to analyze an issue prior to approval of new development; and the need for overarching public facilities siting, design, and resource protection strategies necessary to adequately implement the policies of Chapter 3 of the Coastal Act.
- Transportation. Some concerns with regard to transportation planning include: preauthorization of transportation projects; language that implies that siting or design of transportation projects has the potential to override protection of coastal resources; insufficient triggers to ensure that strategies are proactively implemented to reduce vehicle miles traveled; inadequate assurance that transportation facilities must be limited to the minimum necessary to support LCP buildout; the need for coastal resource-specific policies to adequately address impacts or conflicts typically associated with transportation projects; the need for new development to mitigate for any impacts to traffic congestion on coastal roadways; and inconsistent terminology and associated provisions regarding off-street parking.
- Visual Resources. Some of the primary concerns with the City’s approach to Visual Resources protection include: the limitations on view protection to only specific mapped vantage points; language that proposes to protect views by minimizing “impairment” is not sufficient to protect scenic and visual qualities in the Coastal Zone; permit applications do not require site-specific visual assessments when new development has the potential to impact scenic or visual resources; specific developments that often have impacts to visual resources are not individually addressed to provide a standard of review in the LUP; policies do not address ocean and island views to utilize methods specific to these types of views (e.g., maintaining bluewater views or public view corridors, etc.); method of protection of ridgeline views is limited; and policies do not indicate that additional bluff setbacks may be necessary to protect public views along the shoreline.
- Water Quality. Some of the primary concerns with the City’s approach to water quality protection include: the limited application of a Low Impact Development (LID) approach to stormwater management; the need to avoid new stormwater outfalls to the maximum extent feasible; the need for post-development BMPs to address changes in runoff flow as well as pollution prevention; rainy season grading/construction restrictions are limited to sites adjacent or within ESHA; and post-development flow regimes should mirror pre-development flows to the extent feasible.

We would also note that the same issues that are summarized above are further translated into the Implementation Plan portion of the LCP (received in February 2016) given that the Implementation Plan is written to implement the LUP.

We remain committed to working with you on these challenging issues. Moving forward, we recommend renewed efforts focused on generating a revised draft LUP that complies with the Chapter 3 policies of the Coastal Act. Once the draft LUP is finalized, we can move on to revisions to the Implementation Plan that reflect the LUP. Although the grant has ended, we welcome continued collaboration on LCP development. Please let us know the best way to move forward and if additional meetings might be helpful. For example, your staff indicated the possible formation of a City Council subcommittee to discuss LCP issues and address the outstanding concerns. We are certainly willing to participate in such an effort. I would appreciate having a discussion with you about ways to move forward together on the Goleta LCP. Thank you for your time and attention to this matter.

Sincerely,



Steve Hudson
Deputy Director

cc: Michelle Green, City Manager, City of Goleta
Anne Wells, Planning Manager, City of Goleta
John Ainsworth, Acting Executive Director, CCC
Barbara Carey, District Manager, CCC
Shana Gray, Planning Supervisor, CCC

Attachments: Comment charts by topic separately provided in digital format via email.