
TO: PLANNING COMMISSION

FROM: BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR

**APPLICATION: DEVELOPMENT CODE & LOCAL COASTAL PROGRAM AMENDMENT
(DEVELOPMENT APPLICATION 11-12)**

**SUBJECT: CONSIDERATION OF AMENDMENTS TO THE DEVELOPMENT CODE
AND LOCAL COASTAL PROGRAM**

BACKGROUND

In February 2010, the City Council adopted a comprehensive update to the City's General Plan Land Use Element. The Land Use Element contains broad land use policies that are implemented through the regulations and development standards contained in the City's Zoning Code. Accordingly, the City's Zoning Code needed to be updated to incorporate the new policies of the Land Use Element. In October 2012, the City Council adopted a new Development Code which replaced the previous Zoning Code and also adopted associated changes to the Land Use Element and Local Coastal Program (LCP) for consistency among the three documents. As a result, the adopted Development Code went into effect for the non-Coastal Zone area of the City while the "old" Zoning Code continues to apply to the area of the City in the Coastal Zone pending Coastal Commission approval.

The current LCP adopts by reference the City's Land Use Element and Zoning Code, which makes both documents part of the LCP. As a result, all amendments to the Land Use Element, LCP, and Development Code are required to be approved by the Coastal Commission before taking effect in the Coastal Zone. Following the October 2012 Council approval, the LCP Amendment, Land Use Element Update, and new Development Code were submitted to the Coastal Commission for review. Subsequently Coastal Commission staff made three detailed requests for additional information, clarifications, and comparisons of the proposed changes. This lengthy process was in part a result of adopting a completely new Land Use Element and Development Code which did not provide for a legislative format that clearly delineates all changes.

Recently, Coastal Commission staff and City staff have had discussions regarding the proposed revisions and agreed it would be best to eliminate the Land Use Element from the LCP and incorporate the applicable Land Use Element policies into the LCP. This would allow the City to amend its Land Use Element without having Coastal Commission oversight, since it would no longer be part of the LCP. Subsequently, Coastal Commission staff has provided City staff with suggested modifications (i.e., revisions) to the LCP and Development Code. As a result of the proposed revisions and inclusion of existing Land Use Element policies into the LCP, City staff believes that the Planning Commission and City Council should consider the proposed revisions prior to the Coastal Commission considering approval of the LCP Amendment.

Please Review for the Possibility of a Potential Conflict of Interest:

- None Identified by Staff
- Long
- Rodman
- Alex
- Blum
- Laferriere

Therefore, it is requested that the Planning Commission conduct the public hearing to consider making a recommendation to the City Council on the proposed amendments to the Local Coastal Program and Development Code.

DISCUSSION

The City's Local Coastal Program was first certified by the Coastal Commission in 1982 and has been amended several times. Generally, a certified LCP allows the City to approve Coastal Development Permits for projects located in the Coastal Zone if the projects are consistent with the policies and standards of the LCP. The City's LCP as currently certified incorporates the City's General Plan Land Use Element and the Zoning Code (i.e., the Local Coastal Program includes the Land Use Element and the Zoning Code). Accordingly, any amendments to the City's Land Use Element and Zoning Code require approval by the Coastal Commission because they are part of the LCP.

The current LCP Amendment submitted to the Coastal Commission includes the 2010 General Plan Land Use Element (replaces the 1992 Land Use Element), the Development Code (replaces the Zoning Code) and revisions to the Local Coastal Program to ensure consistency among the three documents. However, recent discussions between City staff and Coastal Commission staff determined that there is a conflict regarding which portions of the 1992 Land Use Element were incorporated into the current LCP. Further, both City staff and Coastal Commission staff believe that it is cumbersome to have both the Land Use Element and Development Code incorporated into the LCP, which requires coordination among the three documents. As a result, City staff and Coastal staff have agreed it would be best to remove the Land Use Element from the LCP and instead incorporate the applicable Land Use Element policies related to development in the Coastal Zone directly into the LCP.

Coastal Commission Certification of an LCP Amendment

When the City submits a LCP Amendment to the Coastal Commission for certification, Coastal Commission staff reviews the Amendment for consistency with the City's LCP and the California Coastal Act. If the Coastal Commission staff recommends no changes to the LCP Amendment, the Coastal Commission can certify (i.e., approve) the LCP Amendment and it takes effect immediately. However, the more typical scenario is that Coastal Commission staff recommends suggested modifications (i.e., revisions that if incorporated would approve the Amendment). Typically, when the Coastal Commission approves the LCP Amendment incorporating the suggested modifications, the Amendment is sent back to the City Council to hold a public hearing to consider the changes and whether to adopt the suggested modifications. If the Council adopts the suggested modifications, then the LCP Amendment is sent back to the Coastal Commission for final certification.

In the case of the current LCP Amendment, City staff and Coastal Commission staff agreed that the suggested modifications should be reviewed by the City, prior to scheduling the Coastal Commission public hearing. The primary reason for this was the change to the structure of the Local Coastal Program by eliminating the Land Use Element from the LCP. As previously mentioned, staff is supportive of this approach as it simplifies the coordination between the documents. It would also allow the City to amend its Land Use Element without having Coastal Commission oversight, since it would no longer be part of the LCP.

If the Council approves the suggested modifications without changes, the Coastal Commission staff would recommend that the LCP Amendment be certified without changes. If that were to

occur, the Development Code would take effect upon action by the Coastal Commission and there would be no need to return the LCP Amendment to the Council, because it was approved as submitted to the Coastal Commission.

Revisions to the Local Coastal Program

The revisions to the LCP consist primarily of adding existing policies contained in the City's Land Use Element related to open space and resource conservation, promotion of visitor serving facilities and water quality. There are also a few new policies related to protection from coastal hazards (e.g., tsunamis, flooding, etc.) and protection of environmentally sensitive habitat areas. The remaining revisions are minor or non-substantive. The proposed revisions are shown in legislative format with additions in double underline and deletions shown in ~~strikethrough~~ (reference Attachment 2, Exhibit A). In order to have one resolution incorporating all the proposed revisions to the LCP, staff has consolidated the previously adopted LCP Amendment language contained in Resolution 12-55 with the proposed additional revisions. In order to differentiate between the previously adopted LCP text and the proposed revisions, the text previously adopted in Resolution 12-55 is not shaded and the proposed revisions (i.e., Coastal Commission staff suggested modifications) are shaded. As a result, the Planning Commission recommendation to the Council includes rescinding Resolution 12-55 since these changes have been incorporated into the new draft resolution.

The majority of the proposed revisions to the LCP involve incorporating existing Land Use Element policies and implementation measures from Goal LU-16, "To protect and enhance the City's important natural and man-made resources". The following Land Use Element policies would be incorporated into the LCP with the new LCP section cited in parentheses:

- LU-16.1 **Open Space/resource conservation land.** The City shall designate the following types of land as open space:
- a. Sensitive habitats or unique resources such as oak woodlands, riparian/creek corridors, significant wetlands and corridors which connect habitats.
 - b. Those areas which are best suited to non-urban uses due to:
 - i. Infeasibility of providing proper access or utilities;;
 - ii. Excessive slope or slope instability;
 - iii. Wildland fire hazard;
 - iv. Noise exposure;
 - v. Flood hazard; and
 - vi. Scenic value. (LCP Section 2.1.5.B General)
- LU-16.2 **Open space uses.** Lands designated Open Space/Resource Conservation should be used for purposes which do not need urban services, major structures, or extensive landform changes. Such uses include:
- a. Unimproved trails.
 - b. Watershed protection; wildlife and native plant habitat; and passive recreation.
 - c. Buildings, lighting, paving, use of vehicles, and alterations to the landforms and native or traditional landscapes on open space lands should be minimized, so rural character and resources are maintained. (LCP Section 2.1.5.B General)
- LU-16.3 **Hillsides.** Hillside development shall:
- a. Keep a low profile and conform to the natural slopes;
 - b. Avoid large, continuous walls or roof surfaces, or prominent foundation walls, poles, or columns;
 - c. Minimize grading of roads;

- d. Minimize grading on individual lots;
- e. Locate houses close to the street; minimize the grading of visible driveways;
- f. Include planting which is compatible with native hillside vegetation and which provides a visual transition from developed to open areas;
- g. Use materials, colors, and textures which blend with the natural landscape and avoid high contrasts; and
- h. Minimize exterior lighting. (LCP Section 2.2.4.K.3)

LU-16.4 **Meadow creek and wetland resources.** The City should manage its Meadow Creek wetlands, floodplains, and associated resources to achieve the multiple objectives of:

- a. Maintaining and restoring natural conditions and fish and wildlife habitat.
- b. Preventing loss of life and minimizing property damage from flooding.
- c. Providing recreational opportunities which are compatible with fish and wildlife habitat, flood protection, and use of adjacent private properties. (LCP Section 2.1.5.B General)

LU-16.5 **Natural resources as amenities.** New public or private developments adjacent to creeks, oak woodlands and wetlands must respect the natural environment and incorporate the natural features as project amenities, provided doing so does not diminish natural values. Developments along creeks should include public access across the development site to the creek and along the creek, provided that wildlife habitat, public safety, and reasonable privacy and security of the development can be maintained. (LCP Section 2.1.5.B General)

LU-16.6 **Trail system.** The City should work with property owners, resource conservation agencies, the State of California, the adjoining cities, and the County to establish an interconnected system of trails connecting open space resources with surrounding neighborhoods. (LCP Section 5.7.A.1.d)

The City should prepare and adopt a Trail Plan to achieve the intent of the above policy. Trail connections to be considered include a trail along Meadow Creek to Pismo Marsh, and a trail along the railroad right-of-way to the City of Pismo Beach with appropriate links to the regional DeAnza Trail. (LCP Section 5.7.A.2.f)

LU-16.8 **Stormwater quality.** The City shall adopt and implement an Urban Storm Water Quality and Discharge Control Ordinance. (LCP Section 2.1.5.B General)

To ensure new development and the redevelopment of existing sites adequately protects water quality, the City shall consider, and implement where appropriate, low impact development options and revisions to the City's water quality management regulations consistent with the Storm Water Management Program adopted by the Regional Water Quality Control Board. (LCP Section 2.1.5.B General)

The City shall ensure that new development will maintain historic off-site storm flows unless improvements are in place or made with the development that will maintain historic downstream and upstream flows. (LCP Section 2.1.5.B General)

The City has adopted and shall periodically update a Storm Water Master Plan including shared detention facilities. (LCP Section 2.1.5.B General)

The City shall comply with relevant provision of the National Pollution Discharge Elimination (NPDES) program as part of the development review process. (LCP Section 2.1.5.B General)

The City will undertake long-term watershed planning and management activities in coordination with adjoining cities, San Luis Obispo County, and State Parks. The main objectives of these efforts are to ensure the protection of water quality, the beneficial uses of water, and the biological and physical integrity of watersheds and aquatic habitat. The City will consider amendments to the policies and programs of the Local Coastal Program as necessary to incorporate the findings and recommendations of these watershed planning efforts. (LCP Section 2.1.5.B General)

- LU 16.10 **Protection of sensitive species.** Prior to the approval of a project with the potential to adversely impact special status plant or animal species of their habitats, the City shall ensure compliance with the relevant provisions of state and federal law relating to the preservation of rare, threatened, or endangered species and their habitat. Such laws included, but are not limited to, the federal and state Endangered Species Acts, and federal Clean Water Act. (LCP Section 2.1.5.B General)
- LU 16.11 **On-site resource preservation.** The City shall encourage new development to preserve on-site natural elements that contribute to the community's native plant and wildlife species value and to its aesthetic character. (LCP Section 2.1.5.B General)
- LU 16.13 **Agency coordination.** The City shall support, and participate in, local and regional efforts of local, state and federal resource agencies to protect, restore and maintain viable, contiguous areas of habitat for sensitive plant and animal species. (LCP Section 2.1.5.B General)
- LU 16.14 **Project-specific surveys for special status plants and animals.** Where future development projects have the potential to impact natural plant communities or sensitive wildlife resources, the City shall require the project applicant to conduct appropriate surveys prepared by a qualified biologist in accordance with applicable regulatory guidelines. Such surveys shall identify and map any existing rare, threatened, or endangered, or endangered plant and animal species and recommend appropriate mitigation measures. (LCP Section 2.1.5.B General)
- LU 16.15 **Riparian habitat protection.** The City shall preserve and protect the ecological integrity of creek corridors that support riparian resources by preserving native riparian plants, and to the extent feasible, removing invasive nonnative plants. (LCP Section 2.1.5.B General)
- LU 16.17 **Monitoring.** Monitoring of mitigation and restoration activities shall be consistent with requirements for each species or habitat as prescribed by the relevant regulatory jurisdictional agencies. For listed or candidate species, species of special concern, or sensitive habitats for which no mitigation or avoidance measures have been published, the City shall require evidence of coordination with the responsible agencies prior to acceptance of mitigation, avoidance measure, and/or monitoring requirements. (LCP Section 2.1.5.B General)

The City will work with the County, conservation organizations, the San Luis Obispo Council of Governments, the California Department of Fish and Game, and the U.S. Fish and Wildlife Service to identify strategies for the permanent protection of habitat for rare and endangered species. (LCP Section 2.1.5.B General)

LU 23.1 **Promote the City's image.** The City will promote the City's tourist amenities including the Oceano Dunes State Vehicular Recreational Area, Pismo State Beach, monarch butterfly preserve, and Amtrak train service. (LCP Section 5.7.H)

LU 26.1 **Commute reduction.** The City shall promote the expansion of employment opportunities in Grover Beach to reduce the volume and distance of home-to-work commute trips by motor vehicle. (LCP Section 4.3.1)

LU 26.3 **Water conservation.** To minimize the need for the development of new water sources and facilities and sewer treatment needs, the City shall promote water conservation both in City operations and in private development. (LCP Section 6.7.1)

Continue to promote the use of drought tolerant landscaping. (LCP Section 6.7.1)

Support storm drainage systems that would keep runoff on-site through Low Impact Design (LID) and hydromodification approaches and percolate into the groundwater. (LCP Section 6.7.1)

The following Land Use Element policies are proposed to be incorporated into the LCP with modifications as shown:

LU 1.5 **Le Sage Mobile Home Park.** The transition of the Le Sage Mobile Home Park to accommodate additional visitor serving commercial or retail businesses shall be encouraged ~~should be allowed only if the existing mobile home residents are not displaced.~~ (LCP Section 5.7.F.1.f)

LU 16.16 **Wetland protection.** The City shall preserve and protect wetland resources including creeks and other seasonal wetland areas ~~to the extent feasible in conformance with Coastal Act Sections 30233 and 30236; all~~ adverse impacts to such riparian resources from any allowable development within wetlands or streams shall be fully mitigated consistent with the requirements of applicable state and federal regulations. (LCP Section 2.1.5.B General)

LU 23.2 **Gateways.** The City will establish entry monuments at major City entrances to identify Grover Beach, and provide signage directing visitors to coastal access locations, key amenities such as the train station and dune access. (LCP Section 5.7.H)

The following is an existing LCP policy that is proposed to be modified as shown:

- All new development shall protect the quality of water bodies and drainage systems through adaptive site design, stormwater management, and the implementation of ~~include all applicable Best Management Practices (BMPs) for control of polluted runoff~~ stormwater management, including, but not necessarily limited to, those identified in the California Storm Water Best Management Practice Handbooks (March 1993), ~~in order to prevent polluted runoff from reaching Meadow Creek and the ocean.~~ (LCP Section 2.1.5.B General)

The following are new policies proposed to be added to the LCP related to protection from coastal hazards and protection of environmentally sensitive habitat areas:

- All new development shall minimize risks to life and property in area of high geologic, flood and fire hazard and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms. (LCP Section 2.1.5.A, Marine Resource Areas, Subtidal Zone)
- New development shall be located outside of the San Luis Obispo County Tsunami Inundation Area to the maximum extent feasible. If all or part of a new construction project is required to be located within the Tsunami Inundation Area, a Coastal Development Permit authorizing such development shall be conditioned to require property owners to submit a tsunami safety plan to the permitting agency for review and approval. The tsunami safety plan shall clearly describe the manner in which hazards associated with tsunamis shall be addressed. At a minimum, the plan shall be prepared in cooperation with the San Luis Obispo County Office of Emergency Services, and shall be in general conformance with any are-wide tsunami safety plan that has been prepared for this section of the coast. (LCP Section 2.1.5.A, Marine Resource Areas, Subtidal Zone)
- As a condition of any development in a know coastal hazard zone, the property owner shall be required to acknowledge and assume all risks from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, flooding, and the interaction of same) associated with development on the property, waive any claims of damage or liability against the permitting agency, and agree to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. Prior to issuance of a Coastal Development Permit, any private property owner shall execute and record a deed restriction against the property that explicitly assumes these risks, on behalf of themselves and any successors or assigns. (LCP Section 2.1.5.A, Marine Resource Areas, Subtidal Zone)
- Environmentally sensitive habitat areas (ESHA) shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (LCP Section 2.1.5.B. General)
- Environmentally Sensitive Habitat Areas shall be buffered by a minimum of 50 feet. Development in areas adjacent to ESHA shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas. (LCP Section 2.1.5.B. General)
- All projects shall be consistent with the uses and viewshed setback in the area west of Highway 1 as shown in Figure 3. (LCP Section 5.7.1.2)

Revisions to the Development Code

The proposed revisions to the Development Code consist of: clarifying that projects in the Coastal Zone must comply with the policies of the LCP; adding language regarding the protection of coastal resources, sensitive resources and coastal hazards; assuring coastal access and compliance with the Coastal Act; prohibiting large telecommunication facilities west

of Highway 1; and other minor revisions. The proposed revisions are shown in legislative format with additions in double underline and deletions shown in ~~strikethrough~~ (reference Attachment 3, Exhibit A).

ENVIRONMENTAL REVIEW

The City Council previously adopted a Negative Declaration on August 6, 2012 for amendments to the Local Coastal Program (LCP) and Land Use Element, and approval of the Development Code. The Negative Declaration concluded that the proposed amendments could not have a significant effect on the environment and no mitigation measures were required.

The proposed revisions to the LCP and Development Code consist primarily of adding existing policies contained in the City's Land Use Element related to open space and resource conservation, and new policies regarding the protection of coastal resources and protection from and coastal hazards. As a result, an Addendum to the previous Negative Declaration has been prepared consistent with Section 15164 of the CEQA Guidelines and determined that the amendments would not result in any new adverse environmental impacts or an increase in severity of previously identified less than significant impacts (reference Attachment 1, Exhibit A).

ALTERNATIVES

The Planning Commission has the following alternatives to consider:

1. Adopt the resolutions recommending that the City Council adopt the Addendum to the Negative Declaration, and approve the Amendments to the Local Coastal Program and Development Code; or
2. Provide alternative direction to staff.

RECOMMENDATION

Staff recommends the Planning Commission adopt the resolutions recommending that the City Council approve the amendment to Development Application 11-12 as follows:

1. Make a motion to approve the resolution recommending that the City Council adopt the Addendum to the Negative Declaration previously adopted with Development Application 11-12.
2. Make a motion to approve the resolution recommending that the City Council approve a Local Coastal Program Amendment associated with Development Application 11-12.
3. Make a motion to approve the resolution recommending that the City Council adopt an Ordinance to amend the Development Code associated with Development Application 11-12.

PUBLIC NOTIFICATION

On May 30, 2014, the public hearing notice was posted as required by City code and published in the Tribune. The proposed Amendments affect more than 1000 properties within the City, which requires a one-eighth page notice be published. The public hearing on June 9, 2014 was

opened and continued to the Special Planning Commission meeting on June 24, 2014. In addition, the agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Draft Resolution – Addendum to the Negative Declaration
2. Draft Resolution – Local Coastal Program Amendment
3. Draft Resolution – Development Code Amendment