

# **Attachment D**

Draft Implementation Plan Key Issues

## LCP IMPLEMENTATION PLAN

### Key Issues

<i><b>ISSUE 1</b></i>	<i><b>COASTAL BLUFFS</b></i>
<b>BACKGROUND:</b>	<p>The Coastal Act requires development to minimize the alteration of natural landforms, and the City's Coastal Land Use Plan (CLUP) recognizes coastal bluffs as significant scenic and environmental resources that are to be protected.</p> <p>The City's Bluff (B) Overlay was adopted to implement the landform protection policies of the General Plan and not those of the CLUP, which are generally more specific.</p>
<b>CCC POSITION:</b>	<p>Coastal Commission staff comments have generally focused on the B Overlay's three development zones for principal structures, accessory structures, and minor accessory structures.</p> <p>They question whether the minimum bluff edge setbacks for bluff subject to marine erosion are being maintained. They are also concerned about some of the minor accessory structures that are permitted (e.g., walls, fences, and irrigation systems).</p> <p>They also do not want these development areas to be perceived as guaranteed; that development will be further restricted by safety, habitat protection, drainage/water quality factors and as geologic conditions change over time.</p>
<b>CITY RESPONSE:</b>	<p>While there may be some variation on individual properties, the B Overlay overall implements the bluff protection policies of the CLUP. The Draft IP was also revised to include cross references to other regulations on coastal/geologic hazards, landscaping, swimming pools, natural landform projection, protective structures, and scenic and visual quality protection.</p>
<b>RELEVANT IP SECTIONS:</b>	21.28.040

<i><b>ISSUE 2</b></i>	<i><b>COASTAL CANYONS</b></i>
<b>BACKGROUND:</b>	<p>The new Canyon (C) Overlay would apply to properties along Buck Gully and Morning Canyon. The C Overlay based on General Plan Natural Resources Policy NR 23.6. It would codify the "stringline setback" procedure that has been in practice since 2007.</p>
<b>CCC POSITION:</b>	<p>Earlier Coastal Commission staff comments suggested that they would like to establish a "canyon edge" setback and that existing development on canyon faces should be pulled back over time. However, recent Coastal Commission staff comments have been on the appropriateness of the stringline method to limit development on the bluff face. They also have questioned a provision that would allow modification or replacement of existing development that extends beyond the stringline setback with like structures in the same development footprint.</p>
<b>CITY RESPONSE:</b>	<p>CLUP Policy 4.4.3-18 calls for using the stringline to restrict development from extending beyond the Predominant Line of Existing Development (PLOED). The provision for existing development recognizes that these structures exist and will continue to be repaired and maintained. Allowing modification and replacement presents the opportunity to at least implement some LCP standards (i.e., habitat buffers, appropriate landscaping and irrigation, water quality BMPs, etc.).</p>
<b>RELEVANT IP SECTIONS:</b>	21.28.050

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<b>ISSUE 3</b>	<b>PRIORITY LAND USES</b>
<b>BACKGROUND:</b>	<p>The Coastal Act and the City's CLUP require that visitor-serving commercial recreational and coastal-dependent land uses have priority over other land uses.</p> <p>These policies are primarily implemented through the CM (Commercial Recreational and Marine) Coastal Zoning District and the CV (Commercial Visitor-Serving) Coastal Zoning District. The CM District is intended to provide for areas on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses. The CV District is intended to provide for areas appropriate for accommodations, goods, and services intended to serve visitors.</p> <p>The Draft Implementation Plan (IP) land use tables contain notes stating these uses will have priority over other uses.</p>
<b>CCC POSITION:</b>	The language in the table notes is not sufficient. They question how the City will respond to projects in these districts that do not provide priority uses. They want to further narrow the range of allowed land uses (e.g., not allowing offices and other non-priority uses).
<b>CITY RESPONSE:</b>	All coastal development permits (CDPs) will be reviewed for consistency with the purpose and intent of the zoning district. CDPs for physical development will be reviewed to ensure that the design can accommodate the uses intended for the zoning district. CDPs for land uses will be reviewed on a case by case basis to determine if the proposed use is consistent with the purpose and intent of the zoning district.
<b>RELEVANT IP SECTIONS:</b>	Table 21.20-1 (Note 4), Table 21.20-2 (Note 6), Table 21.22-2 (Note 5), Table 21.20-1, Table 21.20-1, Table 21.22-1, and Table 21.22-2

<b>ISSUE 4</b>	<b>PREFERENTIAL PARKING DISTRICTS</b>
<b>BACKGROUND:</b>	The City has only existing preferential parking zone (Newport Island established in 1981) in the Coastal Zone. CLUP Policy 3.1.6 -2 requires a CDP to establish a new, or modify an existing, preferential parking zone.
<b>CCC POSITION:</b>	Coastal Commission staff wants the Draft IP to require a LCP amendment in order to establish a new preferential parking district.
<b>CITY RESPONSE:</b>	<p>Requiring a LCP amendment for a new or modified preferential parking zone is not consistent with CLUP Policy 3.1.6-2.</p> <p>The section of preferential parking was revised to include a finding that the establishment of the preferential parking zone will not have a direct impact to coastal access. In order to make this finding, the Draft IP now requires that there be substantial evidence in the record that the public's rights of access to, and along the shoreline and coastal bluffs are not directly impacted, including impacts to the use and capacity of public parking. There must also be substantial evidence in the record that that consideration was given to the availability of, and opportunities for, alternative modes of transportation.</p>

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<b>RELEVANT IP SECTIONS:</b>	21.40.145
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<b>ISSUE 5</b>	<b>BEACH CURFEWS</b>
<b>BACKGROUND:</b>	<p>The City has restricted public use of the beaches since 1947.</p> <p>The Coastal Commission's 1994 guidance document recognizes curfews adopted prior to February 1, 1973 as grandfathered and allows for the adoption of new regulations pursuant to the guidance document.</p>
<b>CCC POSITION:</b>	<p>Coastal Commission staff wants language on current beach closure regulations (i.e., curfews) incorporated in the Draft IP along with a requirement that any changes to existing regulations would require a CDP.</p> <p>NOTE: A CDP modifying beach curfew would certainly be appealable to the Coastal Commission or have to be approved by the Coastal Commission, if they retain original permit jurisdiction on the beaches.</p>
<b>CITY RESPONSE:</b>	The current beach closure regulations are grandfathered and, therefore, not subject to Coastal Commission review.
<b>RELEVANT IP SECTIONS:</b>	21.48.055.E (New)

<b>ISSUE 6</b>	<b>PERMIT AND APPEAL JURISDICTION MAPS</b>
<b>BACKGROUND:</b>	The Permit and Appeal Jurisdiction Maps establish the boundaries of the Coastal Zone, appeals areas, exclusion areas, deferred certification areas, and other coastal-related areas within the Coastal Zone in the City.
<b>CCC POSITION:</b>	Coastal Commission staff maintains that their Mapping Unit is responsible for the preparation of these maps.
<b>CITY RESPONSE:</b>	The City provided the Mapping Unit with all the GIS data used to produce the Permit and Appeal Jurisdiction Map in February 2015. As of this time (Sept. 2015), the City has not received any substantive response.
<b>RELEVANT IP SECTIONS:</b>	21.12.020 and 21.14.045

<b>ISSUE 7</b>	<b>CONTINUATION OF THE CATEGORICAL EXCLUSION ORDER</b>
<b>BACKGROUND:</b>	<p>The Coastal Act allows the Coastal Commission to create categorical exclusion orders, which exempt types of projects that do not have the potential to create a significant adverse effect on coastal resources or on public access. The City was granted a categorical exclusion order (Cat Ex) in 1977 that excludes single-unit and two-unit projects from CDP requirements, with the exception of the first row of lots on the shoreline.</p> <p>Pursuant to the Coastal Act, the Cat Ex will automatically terminate after the LCP is</p>

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	certified. Coastal Commission staff has indicated that they will support reaffirming the categorical exclusion order that would be considered after certification of the LCP.
<b>CCC POSITION:</b>	It is uncertain if all areas covered by the current categorical exclusion will continue to be exempted under a new categorical exclusion order. For example, Coastal Commission staff has stated that continuation of the Cat Ex for Buck Gully and Morning Canyon would be “problematic.”
<b>CITY RESPONSE:</b>	No changes to the Cat Ex are proposed.
<b>RELEVANT IP SECTIONS:</b>	21.52.045

<b>ISSUE 8</b>	<b>SEA LEVEL RISE</b>
<b>BACKGROUND:</b>	In the ten years since the CLUP was certified, sea level rise has emerged as a significant Coastal Commission issue. While the CLUP does have several policies that address sea level rise, it does not address the issue to the extent suggested by the Coastal Commission <i>Sea Level Rise Guidance</i> document, which was adopted on August 12, 2015.
<b>CCC POSITION:</b>	Coastal Commission staff will review the Draft IP for consistency with <i>Sea Level Rise Guidance</i> . The Draft IP should incorporate as much of <i>Sea Level Rise Guidance</i> as is possible.
<b>CITY RESPONSE:</b>	<p>The Draft IP requires that sea-level rise as a factor in coastal hazard reports, in slope stability analyses and erosion rate estimate reports, and in public access design. In addition, a Sea Level Rise Appendix was added that outlines what the City has done to date and an action plan for addressing sea level rise in the future.</p> <p>It would be unfair and inappropriate to require the City to stop the LCP certification process at this late stage in order to conduct the significant and extensive data collection, technical analyses, risk assessment, and policy reassessments necessary to address sea level rise.</p>
<b>RELEVANT IP SECTIONS:</b>	21.30.015.C, 21.30A.050.A, and Appendix A (New).