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Surfing the Waves with the California Coastal Commission

Presentation Overview

Presentation Overview

» **Local Coastal Plans:**

- Bob Brown, AICP, Streamline Planning Consultants

» **Coastal Development Permits:**

- Patrick Alford, Planning Program Manager, City of Newport Beach

» **Local Coastal Plan and Coastal Development Permit Processing:**

- Anne Blemker, Public Policy and Planning Advisor, McCabe & Company

Local Coastal Plans

Relationship with Coastal Act

- » Coastal Act implemented 1976
 - » Coastal Commission is lead agency for carrying out California's coastal management program
 - » Coastal Commission mission is to plan for and regulate development in the coastal zone consistent with the policies in the CA Coastal Act



Relationship with Coastal Act

Chapter 3 Coastal Resources Planning and Management Policies 30200

Article 1. General

Article 2. Public Access

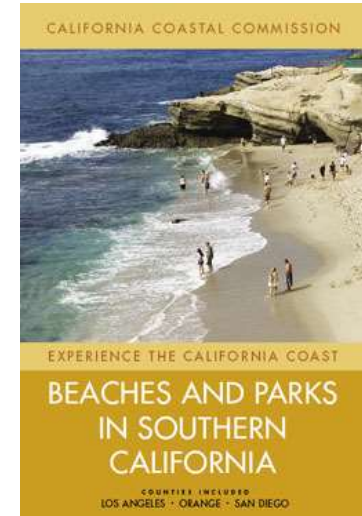
Article 3. Recreation

Article 4. Marine Environment

Article 5. Land Resources

Article 6. Development

Article 7. Industrial Development



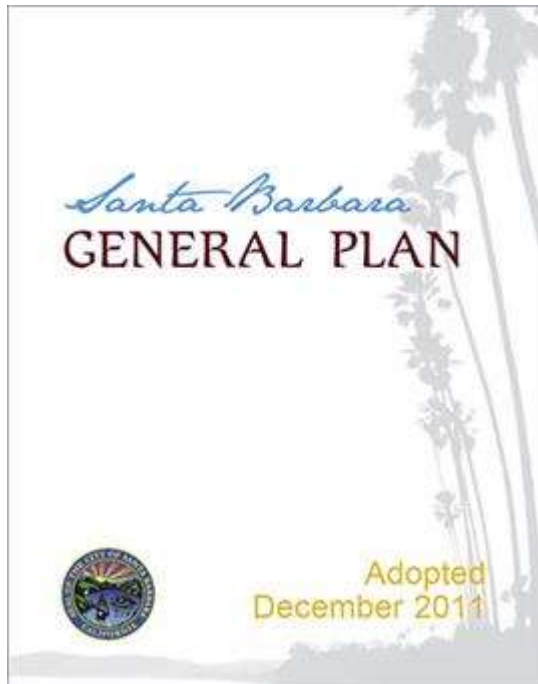
Relationship with Coastal Act

Chapter 6 Implementation 30500

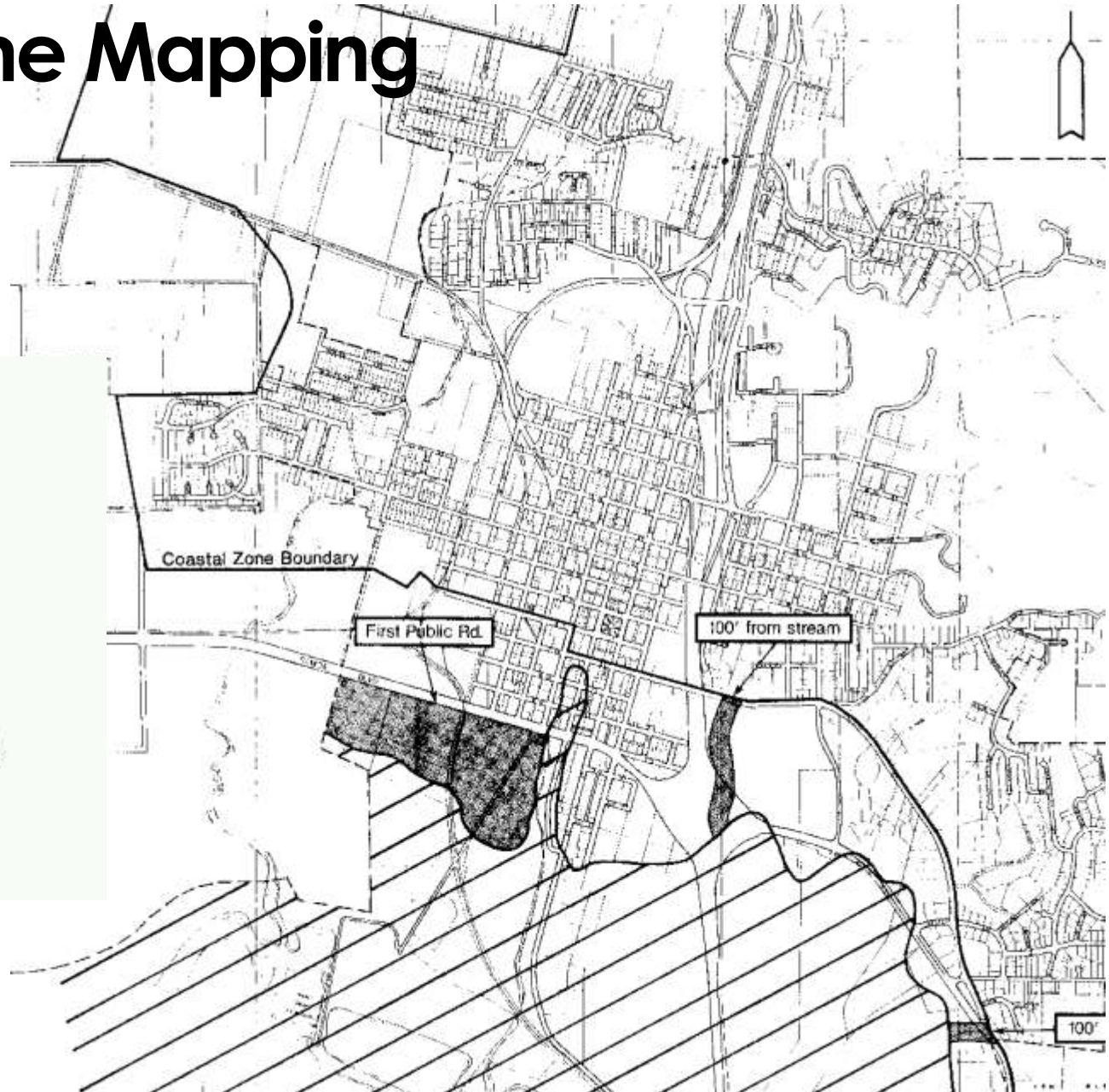
Article 1. Local Coastal Program

Article 2. Procedure for Preparation, Approval, &
Certification of Local Coastal Program

Article 3. Coastal Public Access Program



Coastal Zone Mapping



Relationship with General Plan

- » Conflict with General Plan Guidelines *“To simplify implementation, coastal zone communities should integrate both sets of requirements into a coherent and internally consistent local general plan.”*
- » Two General Plans needed?
- » Old LCPs vs. current Coastal Act Policies: most restrictive applies... sometimes
- » Coastal Zone mapping intrusions
- » Need Zoning Specificity also



Relationship with General Plan

End Result:

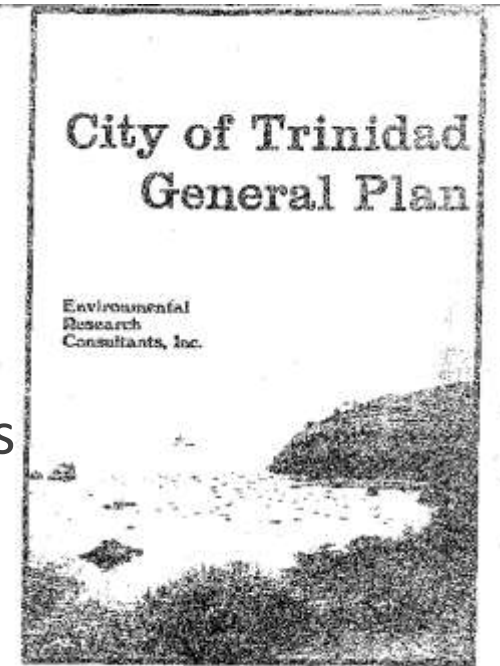
The County is not amending the Local Coastal Program as part of this 2006 General Plan. The County will review the LCP after adoption of the 2006 General Plan Update. If any of the goals, policies, and standards of the 2006 General Plan are to be incorporated into the LCP, such proposals would be subject to all appropriate public review procedures, including noticed public hearings, separate action by the County Board of Supervisors, and submission of major LCP amendments to the Coastal Commission for certification.

In the interim period between adoption of the 2006 General Plan and update of the LCP Land Use Plans, the certified Land Use Plans will continue to govern in their respective areas within the coastal zone. This approach is intended to leave in place in the coastal zone the land use regulatory framework in effect prior to the adoption of this 2006 General Plan zone until the County has reviewed and amended one or more of the coastal Land Use Plans and the Coastal Commission has certified such amendments. The LCP will continue to govern land use designations in the coastal zone, and this 2006 General Plan recognizes that to the extent that the ----- Community Area proposed in this 2006 General Plan is partially in the coastal zone, an amendment to the North County Coastal Land Use Plan would be required to be processed and certified by the Coastal Commission as part of the Community Plan process. (See Policy LU-2.23)

Amending LCPs

» CDPs higher priority than amending LCP

- Longer time to process
- Little involvement until local agency takes action
- Now designated staff related to 3 rounds of grant funding



» CEQA Equivalency

- Certified Regulatory Process Agency (15250-15253)
- Don't end up with EIR to tier off of
- Only deals with Coastal Act issues, not all CEQA required topics
- So not looking at all GP element requirements

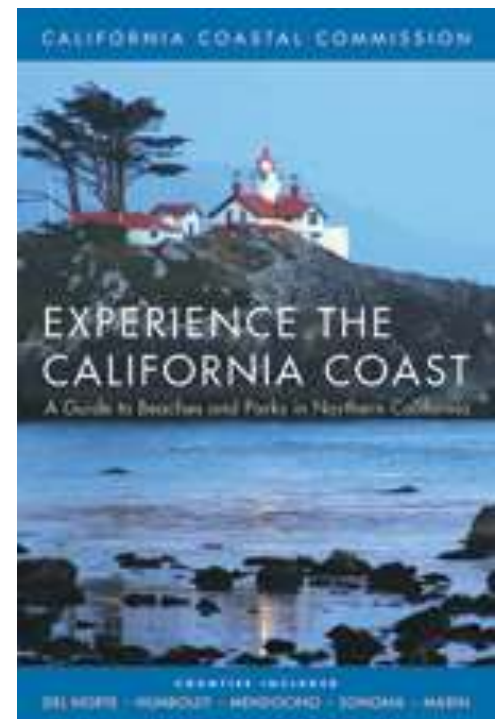
Local Agency Perspective

- » Held captive to what Coastal staff feel are important 'Commission' issues, not the citizens
- » Precedent setting concerns overly cautious
- » Lack of early CCC staff involvement followed up by restrictive interpretations cause local agencies to give up
- » Limited local agency presentation time before Commission
- » Changes have to go back through local agency process after Commission approval



Project Examples

- » Trinidad
- » Del Norte County
- » Eureka
- » Arcata
- » Humboldt County



Solutions

- » **Avoid delays**
- » **Best work with staff**
- » **Provide Alternative methods to address concerns**
- » **Develop a relationship**
- » **They have a life too**



Coastal Development Permits

Case Study: Marina Park



- 10.5 acres
- 57 mobile homes
- SCE substation
- Beach park and playground
- Community/Sailing Center
- Girl Scout House
- 23-slip marina
- 172 parking spaces

Project Location



Marina & Bayfront Park



Balboa Center



Issues

- » Biological Resources
 - Delineation of Wetlands
- » Land Use
 - Coastal Act § 30321
 - Coastal Act §30233
- » Aesthetics
 - Lighthouse Feature



Issue: **Biological Resources**

» **Draft DEIR**

- Loss of 0.66 acres of sandy intertidal habitat
- Create 1.56 acres of shallow water habitat
- Intertidal habitat not wetlands per USACE

» **Coastal Commission Response**

- Delineation of wetlands methodology
- Mitigation

Wetlands

» **USACE (Multi-Parameter)**

- Hydrology? (Yes)
- Hydric soils? (No)
- Hydrophytic vegetation? (No)

» **Coastal Act/CCR (Single Parameter)**

- Coastal Act Section 30121
- CCR Section 13577(b)

Coastal Act

» **Section 30231**

- Requires the maintenance and restoration (if feasible) of the biological productivity and quality of wetlands appropriate to maintain optimum populations of marine organisms and for the protection of human health.

» **Section 30233**

- Limits the filling of wetlands to identified high priority uses
- Any wetland fill must be avoided unless there is no feasible less environmentally damaging alternative, and authorized fill must be fully mitigated.

Wetlands Delineation

» Conclusions

- No hydric soils
- No dominance of hydrophytic vegetation
- Insufficient functional capacity
- No wetlands present



Issue: **Aesthetics**

» **Draft DEIR**

- CEQA Guidelines' Thresholds
 - Scenic vista? (No)
 - Scenic resources? (No)
 - Degrade visual character? (No)
 - Light/glare? (No)

» **Coastal Commission Response**

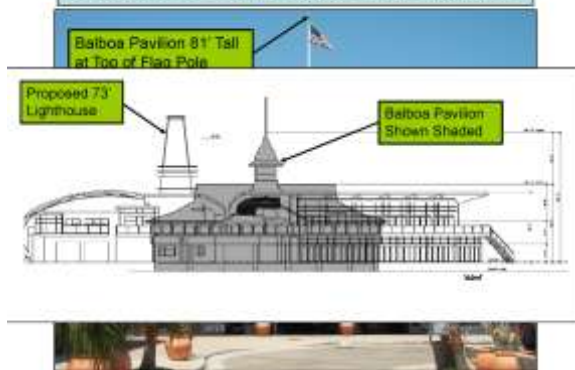
- Coastal Act Section 30251
- City's Shoreline Height Limitation Zone

Coastal Act Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Compatibility and Enhancement

Landmark Tower: Tying it All Together



Landmark Tower: Tying it All Together



Placemaking



Kevin Lynch

- 1918-1984
- Renowned Urban Planning Professor & Researcher at MIT
- Author of *Image of the City* (1960)

Image of the City

• "There seemed to be a tendency for those familiar with a city to rely increasingly on systems of landmarks for their guides."

• "The essential characteristic of a viable landmark is its similarity, its contrast with its context or background. It may be a tower silhouetted over low roofs. Control of the landmark and its context may be needed [such as] height limits which apply to all but one building."

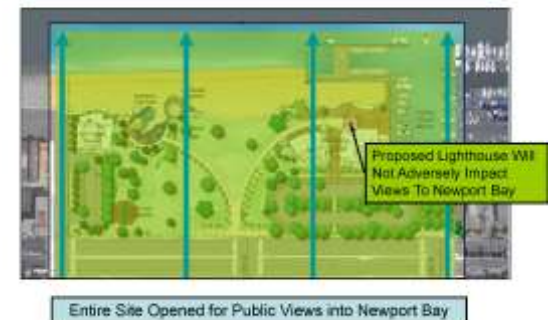
Existing Site Conditions



Existing Site Conditions



Proposed Site Conditions



Additional Simulations/LUP Amendment

- 4.4.2-1.** Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone, as graphically depicted on Map 4-3, except for the following site:

Marina Park located at 1600 West Balboa Boulevard: A single, up to maximum 73-foot- tall faux lighthouse architectural tower, that creates an iconic landmark for the public to identify the site from land and water as a boating safety feature, may be allowed. No further exceptions to the height limit shall be allowed, including but not limited to, exceptions for architectural features, solar equipment or flag poles. Any architectural tower that exceeds the 35-foot height limit shall not include floor area above the 35-foot height limit, but shall house screened communications or emergency equipment, and shall be sited and designed to reduce adverse visual impacts and be compatible with the character of the area by among other things, incorporating a tapered design with a maximum diameter of 34-feet at the base of the tower. Public viewing opportunities shall be provided above the 35-feet, as feasible. (Resolution 2013-44)



Lessons Learned

» Careful use of terms

- Don't use the term “wetland” willy-nilly

» Keep current on CCC methods and practices

- One-parameter delineation of wetlands
- Interpretation of Coastal Act policies

» Coastal Act polices vs. CEQA thresholds

- Visual compatibility
- Pluses vs. minuses are not enough

» Least environmentally damaging alternative

- Not just for EIRs anymore
- Avoid first, minimize impacts, and then mitigate

LCPA & Permit Processing

Ensuring a Complete Application

- » Use the Application Checklist (available on CCC website)
 - Prepare cover letter
 - Submit more than minimum information requested
- » Request Pre-Application Meeting w/CCC Staff
- » Monitor Staff Review Period for Completeness
 - CDP Application: 30 calendar days
 - LCPA Application: 10 working days
 - Appeal of local CDP: 49 calendar days after appeal is filed to determine if Substantial Issue exists

Project Review and Staff Coordination

- » Work with Staff Early and Often
 - Be responsive to questions
 - Submit additional technical documentation quickly
 - 30-day clock resets with each submittal
- » Once Application is Deemed Complete:
 - Watch processing deadline
 - 180 days for CDP application; 60-90 days for LCPA
 - Be aware of hearing locations; local hearing required?
- Ask about Staff Rec and Draft Special Conditions

Preparing for Hearing

- » Review Staff Report and Special Conditions
 - Any errors? Disagreement?
 - Prepare response letter
- » Request Commissioner Briefings
- » Prepare Briefing Book
 - Utilize Power Point format/sent in pdf
 - Provide high level overview of project: location, background, benefits, consistency with LCP and CA
 - Conclude w/“ask”—asking for changes or approval as recommended?

Hearing Day

- » Applicant's Organized Presentation
 - Determine how much time you have for presentation
 - CDP: 15-20 minutes (inc. rebuttal)
 - LCPA: 15-20 minutes (inc. rebuttal)
 - Appeal: Varies based on staff recommendation
 - Load Presentation w/AV team
 - Bring flashdrive(s)
 - 25 copies of handouts for Commissioners and staff
 - Coordinate Other Speakers (stakeholders, supporters, etc.)

Post Hearing Actions

- » Review Notice of Intent (NOI)
 - » Explains CCC action and conditions of approval
- » If CDP - Submit Condition Compliance Items
 - » Many conditions must be completed “prior to issuance” of the permit
 - Submit materials ASAP
 - No time constraint on staff’s review
- If LCPA – City Acceptance of Suggested Modifications
 - Return to CCC for ED Check-off

What Next?

Take your approval and ride off into the sunset...



Contact Information

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» **Tanya Sundberg and Alex Lopez**

- PlaceWorks
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- alopez@placeworks.com

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