



CITY OF FORT BRAGG

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August 26, 2008

Mendocino County Grand Jury
P.O. Box 629
Ukiah, CA 95482

Report Title: "KAFKA GOES COASTAL"

Report Date: June 17, 2008

Response by: Fort Bragg City Manager (All findings; All recommendations)
Fort Bragg City Council (All findings; All recommendations)
Fort Bragg Community Development Director (Findings 9-32; Recommendations 1 and 2)

Findings:

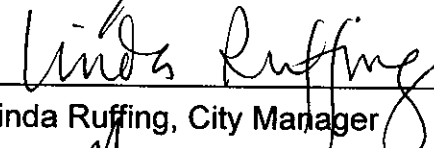
- I (we) agree with the findings numbered:
1, 3, 5, 6, 7, 8, 10, 12, 15, 16, 19, 20, 21, 23, 24, 27-34
- I (we) disagree wholly or partially with the Findings numbered:
2, 4, 9, 11, 13, 14, 17, 18, 22, 25, 26

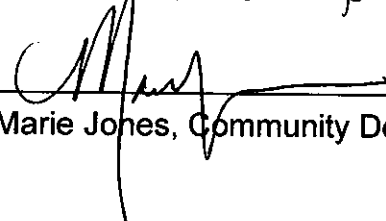
(See attached statement specifying any portions of the Findings that are disputed; and explaining the reasons therefore.)

Recommendations:

- Recommendations numbered: 1, 2, and 3 have been implemented. (See attached summary describing implemented actions.)

Date: 8-27-08 Signed: 
Doug Hammerstrom, Mayor

Date: 8.26.08 Signed: 
Linda Ruffing, City Manager

Date: 8-26-2008 Signed: 
Marie Jones, Community Development Director

Number of response pages attached: 2 page response; plus attachments (12 pages)

Cc via email to:

grandjury@co.mendocino.ca.us
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Finding #2 is only partially correct. The LUP includes policies governing development in the coastal zone that are necessary to implement the Coastal Act and the LUP is typically a part of a city's General Plan. In Fort Bragg, the new LUP is contained within the "Coastal General Plan." The IP provides implementing regulations for the LUP policies, including zoning and subdivision regulations, site development regulations, resource management requirements, etc. In Fort Bragg, the IP is contained within the "Coastal Land Use & Development Code" (Coastal LUDC).

Finding #4 is only partially correct. The footnote re: Categorical Exclusion orders inaccurately defines the specified types of development as being "exempt from CCC appeal." In fact, they are exempt from the requirement to obtain a coastal development permit. In addition, the last sentence is only partially correct. Pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority (with certain exceptions) after LCP certification over development occurring on tidelands, submerged lands, and public trust lands.

Finding #9 is only partially correct. The City of Fort Bragg's original LCP (LUP and IP) was certified on July 14, 1983. A number of subsequent LCP amendments were certified by the CCC in 1985, 1986, 1988, 1989, 1991, 1992, and 1995.

Finding #11 is only partially correct. The City submitted an application to the CCC for a comprehensive amendment to its LUP in May 2003. The City was in the process of preparing an amendment to the IP (i.e., the Land Use & Development Code) at that time. At the time the comprehensive amendment to the LUP was submitted to the CCC, the Council and Planning Commission were involved in a lengthy public process for reviewing the proposed Land Use & Development Code. The amended IP was not completed by the City until July 2004.

Finding #13 is only partially correct. Characterizing the submittal of the IP amendment to the CCC in May 2006 as a "delay of nearly three years" is inaccurate, since the IP amendments (which were included in the Land Use & Development Code) were not adopted by the Council until July 2004.

Finding #14 is only partially correct. It does not address the fact that, in November 2004, the Council adopted further amendments to the LUP to ensure consistency between the newly adopted Land Use & Development Code and the December 2004 General Plan. Following this action, Coastal Commission staff suggested that an entirely new LCP amendment submittal should be prepared, hence the adoption of Resolution 2857-2005 in April 2005. The quotation in Finding #14 that the resolution states that the LCP amendments take effect "automatically upon Coastal Commission approval" is misleading as it does not include the remainder of the sentence in the adopted resolution as follows "unless the Commission suggests modifications, in which case, the Council will take action to consider adoption of the suggested modifications prior to the Local Coastal Program amendments taking effect."

Finding #17 inaccurately synthesizes the City Manager's May 22, 2006 report to the Council. The entire staff report is attached to this response.

Finding #18 is only partially correct. The reference to an "affordable housing project" is not technically accurate as the referenced project did not include any restrictive covenants regarding rental rates or tenant income eligibility. Based on the project design however, it appears that the project intended to target the lower end of the market rate housing spectrum. The statement that "the numerous demands placed on this application [Hazelwood Townhouse Project] constituted an effective denial of the project" is incorrect. In May 2004, the City sent a letter to the applicant requesting additional information and

analysis necessary to complete the Hazelwood Townhouse Project application. That letter did not reference any "uncertified" LCP policies or regulations. The requested information (drainage analysis, traffic analysis, lighting plan, etc.) is standard information necessary to evaluate a project's impacts. Further, on June 19, 2006, the Community Development Committee (CDC) of the City Council met with Mr. Moura, his attorney and his architect to review the Moura Townhome Project application and clarify exactly what information would be necessary to complete the application (see attached CDC minutes). The City Manager, Community Development Director and Director of Public Works participated in that discussion. While the City understands that the information that was required was substantial and may have been interpreted by Mr. Moura to be an "effective denial," that was certainly not the intent of the Council or staff. Unfortunately, the requested information was not submitted and the application remained "incomplete" until it was deemed to be withdrawn in July 2008.

Finding #22 is only partially correct. The statement that the July 30, 2004 LUDC was not legally applicable to any development permit application in the coastal zone is not accurate. The portions of the LUDC that did not amend the City's certified LCP were applicable to development in the coastal zone. A staff report to the City Council dated August 28, 2006 explains the necessity of a "hybrid" approach (see page 2, attached).

Finding #25 is not entirely correct. The statement that "Nonetheless, several provisions of the uncertified LCP are cited as also being applicable to the project" should read, "Several provisions ~~of the uncertified LCP~~ of the LUDC that are not part of the City's LCP amendment application are cited as also being applicable to the project."

Finding #26 is incorrect. The Hazelwood Townhouse Project application was not a "failed" application, nor was it "terminated." The applicant failed to submit the information required to complete the application. The application status was "incomplete" until July 2008, when the City deemed the application to be "withdrawn." At that time, the City refunded the full balance remaining in the applicant's developer deposit account.

Recommendation #1 has been implemented. The City has diligently pursued certification of its LCP amendment. While it was not certified at the July 11, 2008 CCC meeting due to Coastal Commission staff's inability to complete their necessary review, it was placed on the Coastal Commission's August 8, 2008 agenda for final certification. The City will confirm that the required Notice of Certification is filed with the Secretary of Resources.

Recommendation #2 has been implemented. The City apologized to the applicant for the Hazelwood Townhouse Project for confusion resulting from the references to uncertified IP requirements in the November 2004 letter on numerous occasions, including at the May 22, 2006 City Council meeting and the June 19, 2006 Community Development Committee meeting. The City refunded the applicant's initial \$1,500 deposit after the June 19, 2006 Community Development Committee meeting. In addition, the City refunded the balance in the applicant's developer deposit account in July 2008.

Recommendation #3 has been and continues to be implemented. The City is an active participant in the League of California Cities "Coastal Cities issues group" which is coordinating closely with the California State Association of Counties (CSAC) on issues relating to the Coastal Commission.

Attachments:

5/22/06 Council staff report entitled "Receive Report Regarding Implementation of Updated Local Coastal Program"

8/28/06 Council staff report entitled "Report on Status of City's Local Coastal Plan Amendments (Part 2)"

6/19/06 Community Development Committee minutes; p. 3-5 re: "Receive Report and Review Moura Townhome Project Application"

MEETING DATE: May 22, 2006
DEPARTMENT: City Manager's Office
PREPARED BY: L. Ruffing
DEPT. DIR. APPROVAL: _____
CITY MGR. APPROVAL: _____
PRESENTED BY: L. Ruffing

AGENDA ITEM SUMMARY REPORT

RECEIVE REPORT REGARDING IMPLEMENTATION OF UPDATED LOCAL COASTAL PROGRAM

BACKGROUND

On April 13, 2006, Paul Clark submitted to the City Council a letter prepared by Attorney James A. Jackson addressing the implementation of the City's adopted but not-yet-certified Local Coastal Program (LCP) in the coastal zone. Mr. Jackson's letter states that the City's amended LCP does not take effect until it is certified, per California Government Code Section 30514(a), and the City must continue to enforce the existing LCP until the new LCP is certified. The letter calls into question the way in which the City has applied its old and new regulations to development applications while awaiting certification of the new LCP by the Coastal Commission.

SUMMARY

Existing Certified Local Coastal Program. The City's certified LCP consists of the Land Use Plan (LUP) that was certified by the Coastal Commission in February 1982 and the Implementation Program (IP) that was certified by the Coastal Commission in 1983. Several amendments to the LUP and IP have been approved by the City and certified by the Commission since then. The IP is comprised of Fort Bragg Municipal Code (FBMC) Title 17, the Subdivision Ordinance, and the following portions of FBMC Title 18, the Zoning Ordinance:

- Chapter 18.07- Coastal Zone Definitions
- Chapter 18.1- Residential Zones
- Chapter 18.2- Commercial Zones
- Chapter 18.3- Industrial Zones
- Chapter 18.4- Special Zones
- Chapter 18.5- Combining Zones
- Chapter 18.61- Coastal Zone Combining Zone
- Chapter 18.74- Amendments
- Chapter 18.76- Variances-Use Permits
- Chapter 18.78- Appeals
- Zoning Map

All other regulations contained in the FBMC apply in the coastal zone, however, they are not part of the City's certified LCP. Most notably, the City's parking regulations (Title 18; Chapter 18.71); non-conforming use regulations (Title 18; Chapter 18.81) and sign regulations (Title 15; Chapter 15.20) are not part of the certified LCP.

New Local Coastal Program. The City Council adopted a new General Plan in December 2002. It includes an updated Coastal Element and other policies and programs that are designed to meet Coastal Act requirements. These policies are designated throughout the General Plan with the ~ symbol and are intended to apply both in and out of the coastal zone unless explicitly stated otherwise.

In July 2004, the Council enacted a new zoning code, known as the Land Use & Development Code (LUDC), which applies throughout the City. The LUDC is the IP for the newly adopted LUP. Section 18.10.020 of the LUDC indicates that the following provisions constitute the City's new ordinances for implementation of the LCP:

- Article 1 – Land Use and Development Code Applicability
- Article 2 – Zoning Districts and Allowable Land Uses
- Article 5 – Resource Management
- Article 6 – Site Development Regulations
- Article 7 – Section 18.71.040 – Coastal Development Permits
- Article 7 – Chapter 18.74 – Cultural Resource Protection
- Article 7 – Chapter 18.76 – Permit Implementation, Time Limits and Extensions
- Article 9 – Chapter 18.92 – Appeals
- Article 9 – Chapter 18.94 – Amendments
- Article 9 – Chapter 18.96 – Public Hearings

The City's new LCP (including portions of the 2002 General Plan, the 2004 LUDC, and a General Plan "clean up" amendment adopted in 2004) has been submitted to the Coastal Commission for review and certification. For a variety of reasons, including the complexity of the project, staffing shortages, and turnover at the Coastal Commission, the LCP has not yet been certified. Certification of the LCP remains one of the highest priorities of the City's Community Development Department and we are hopeful that the City's entire comprehensive LCP update (including both the LUP and IP) will be certified by the Coastal Commission within the next 6-8 months.

Since adoption of the new LUP in 2002 and the new IP in 2004, the City has used the following procedure for review of coastal development permit applications:

- (1) All policies of the certified LUP are applied.
- (2) All 2002 General Plan policies (except those pertaining to allowable uses in land use classifications) are applied as well, unless they are less restrictive than those in the old LUP.
- (3) For development standards, City staff first references the certified IP, then cross-checks the standards with the new IP (LUDC) and- if there are instances where the new LUDC

provides additional standards that do not correspond to standards established in the certified IP, those new standards are also applied.

- (4) For parking, signage, and non-conforming use regulations (which are not part of the City's certified LCP), City staff applies the standards of the LUDC.

Upon receiving the letter from James A. Jackson, staff requested that the City Attorney's office review this process and evaluate whether it should be modified based on Section 30514 of the Coastal Act.

In response, it was noted that the Coastal Act sets forth very short time periods for certification of amendments to the LUP and the IP. If adhered to by the Coastal Commission, these shortened periods would help to avoid this type of situation where the lengthy delays in LCP certification resulted in the City formulating complex planning procedures intended to maintain internal consistency between its amended general plan and zoning code and the still certified LCP.

The City Attorney's office has noted, however, that under a literal reading of Section 30514 of the Coastal Act, because neither the 2002 amendments to the LUP nor the 2004 amendments to the IP have been certified by the Coastal Commission, these amendments have yet to take effect. When considering the City's approach to coastal development permit applications, it appears that the City has acted correctly in applying the certified (pre-2002) LCP policies to these applications. It also appears that the City has acted correctly in refraining from applying 2002 General Plan policies that are less restrictive than the certified LCP. Because the amendments to the IP have yet to take effect, however, it would be inappropriate for the City to condition or deny a coastal development permit on the basis of the amended IP. Staff has reviewed the 31 coastal permits that were approved since the new LUP was adopted in 2002 and none of the special conditions in those permits were applied solely on the basis of the amended LUP and/or IP. No coastal development permits were denied by the City during this time period.

Given this information and analysis, staff recommends that, when processing current and future coastal permit applications, the City will refrain from applying either the amended LUP or the amended IP until the new LCP has been certified by the Coastal Commission.

FISCAL IMPACT

There is no fiscal impact associated with this matter.

ALTERNATIVES

This is an informational report. No alternatives are needed.

RECOMMENDATION

Receive Report Regarding Implementation of Updated Local Coastal Program

ATTACHMENTS

1. April 13, 2006 Letter from James A. Jackson

AGENDA & SUMMARY REPORT TO:

1. James A. Jackson
2. Paul Clark
3. Joe Moura
4. Ed Taubold

MEETING DATE: August 28, 2006
DEPARTMENT: Community Development
PREPARED BY: L. Ruffing
DEPT. DIR. APPROVAL: _____
CITY MGR. APPROVAL: _____
PRESENTED BY: L. Ruffing

AGENDA ITEM SUMMARY REPORT

REPORT ON STATUS OF CITY'S LOCAL COASTAL PLAN AMENDMENTS (PART 2)

BACKGROUND

The City Attorney has prepared a report on the status of the City's Local Coastal Program (LCP) to provide the Council and the community with an update regarding LCP submittals and actions and the status of the City's current LCP amendment.

This report supplements the City Attorney's report and addresses the following matters:

- Additional information regarding the status of the City's current LCP amendment submittal.
- Clarification regarding the Council's May 22, 2006 direction to staff to apply the standards of the certified LCP to new development in the coastal zone until the comprehensive LCP amendment is certified.
- Follow-up actions that have been taken since the May 22nd Council meeting and additional actions that are needed.
- Lessons learned and suggestions for the City of Fort Bragg, other coastal communities, and the Coastal Commission.

SUMMARY

1. **Current LCP Amendment Application.** On August 24, 2006, the City submitted additional documentation to the Coastal Commission for the LCP amendment application (FTB-MAJ-1-06) in response to a letter from Commission staff dated June 1, 2006. We are hopeful that this documentation will "complete" the application and we expect a response from the Coastal Commission within 10 days in accordance with 14 CCR 13553. (Attachment A).

As the resubmittal documentation was prepared, and based on the certified LCP Documents provided by Coastal Commission staff on July 24, 2006, City staff has determined that the LUDC too narrowly defines what constitutes the "Implementation Program" for the LUP. Staff has also come to the conclusion that the City's attempt to maintain one document that

contains all of the development regulations that apply both within and outside of the coastal zone has compounded our problems in administering the certified LCP.

Staff recommends (a) that, in the future, the City should maintain a separate LUDC for the coastal zone and (b) that the entire LUDC should be submitted as the implementation program for the LCP. To formally accomplish this, the City Attorney has recommended that the Council conduct a public hearing and adopt a new resolution of transmittal for the LCP amendment that clarifies that the entire LUDC comprises the City's implementation program for the LCP. We have discussed this with Coastal Commission staff and they agree with this approach. We are prepared to notice a public hearing on the Council's September 11, 2006 agenda for this purpose and request direction from the Council on this matter.

2. Implementation of Existing Certified LCP. At the May 22, 2006 Council meeting, staff recommended and the Council concurred that, until the LCP amendment is certified, the City will only apply policies from the certified LCP in the coastal zone (Attachment B). It was explained that there would need to be a hybrid approach with some of the new LUDC regulations applying, but a detailed discussion of which sections applied was not conducted.

Since that time, the City has received a complete set of documents from the Coastal Commission that constitute their record of the City's certified LCP. As the City Attorney's report notes, for many years, City staff has referenced a document titled "LCP Manual" as the basis of our understanding of what constitutes the certified LCP. The documentation provided by the Coastal Commission last month indicates that the LCP Manual did not appropriately reference all of the certified regulations. Since that document was received from the Commission, City staff has relied upon it rather than the document titled "Title 18-2002" as previously indicated as the complete certified implementation program for the LCP.

At this time, staff would like to clarify for the Council our current understanding of what regulations in the LUDC are applicable in the coastal zone. These are portions of the City's land use regulations that are not part of the certified LCP, but are necessary to regulate development both within and outside of the coastal zone. Over the years, these regulations have been applied throughout the City:

1. Fort Bragg Municipal Code Chapter 15.20 (Sign Ordinance) was repealed and replaced by LUDC Chapter 18.38- Signs
2. Site and Architectural Review requirements (former Chapter 18.75, adopted in 1985) was repealed and replaced by LUDC Section 18.71.050 – Design Review. (Please note that LCP Chapter 18.58- Scenic Corridor Combining Zone establishes a parallel design review process that has been applied in the coastal zone concurrent with the Site and Architectural Review process established in Chapter 18.75)
3. Developer Indemnification requirements (former Chapter 18.77) which was repealed and replaced by LUDC Section 18.70.060 – Developer Indemnification
4. Mitigation Monitoring requirements (former Chapter 18.83) which was repealed and replaced by LUDC Chapter 18.72 – Environmental Impact Assessment and Mitigation Monitoring

5. Adult Entertainment Establishments (former Chapter 18.90) which was repealed and replaced by LUDC Chapter 18.40 – Adult Oriented Business Regulations.
6. Enforcement – (former Chapter 18.82) which was repealed and replaced by LUDC Chapter 18.98.

In addition, there are regulations contained in the newly-adopted LUDC that do not have corresponding regulations in the certified LCP, but are necessary to implement policies of the City's General Plan Housing Element (which is not part of the certified or proposed LUP). These include:

1. LUDC Chapter 18.31 – Density Bonuses and Affordable Housing Incentives.
2. LUDC Chapter 18.32 – Inclusionary Housing Requirements.

Staff would like to clarify to the Council that, unless otherwise directed, we will apply these regulations to development applications in the coastal zone while awaiting certification of the City's comprehensive LCP update.

3. Follow-up Actions. Following the May 22, 2006 Council meeting, several actions were taken to address issues identified at the meeting, including:

- The Community Development Department prepared a map that shows the land use designations assigned by the certified LCP (in the coastal zone) and the updated General Plan/LUDC (outside of the coastal zone).
- The Community Development Department updated its brochures for development applications to create separate brochures that reference the requirements of the certified LCP for applications in the coastal zone.
- The Council's Community Development Committee (CDC) met on June 19, 2006 to continue the discussion of coastal zone regulations and to discuss the Moura Townhouse Project application. Based on the CDC's recommendation, the applicant's developer deposit account was credited for charges incurred for previous application review activities. In addition, clarification was provided to the applicant regarding items that must be addressed during the development review process. The CDC also provided direction to staff regarding when applications should be "deemed submitted" for the purpose of vesting current development regulations. That item has been agendaized for Council consideration on this (August 28, 2006) agenda.

Staff has identified an additional follow-up action that is necessary to assist with responses to inquiries and application review in the coastal zone, as follows:

- Based on the LCP Documents provided by the Coastal Commission on July 24, 2006 and the Council's concurrence regarding Item 3, above, staff will prepare an updated "Title 18" that provides all of the applicable development regulations in the coastal zone until the LCP amendment is certified.

4. Lessons Learned and Suggestions for the Future. The discussion of the City's LCP over the past few months has provided an opportunity for a considerable amount of introspection and reflection about what has gone wrong in this whole process. Some of the problems are internal to the City and some are emblematic of problems facing coastal communities throughout California (Attachment C).

We now know that the City has made mistakes in administering its LCP since 1986—a mere three years after it was certified and the City assumed jurisdiction for implementing LCP regulations in the coastal zone. There appear to be many reasons for these mistakes including:

- a. Poor record-keeping, both at the City and the Coastal Commission, regarding what constitutes the City's certified LCP.
- b. Lack of clarity in the zoning ordinance amendment process regarding whether the adopted modifications constituted amendments to the City's certified LCP.
- c. In some instances, procedural errors in the City's adoption of ordinance amendments that either made it very difficult or impossible to submit subsequent LCP amendment applications to achieve certification of those ordinance amendments.
- d. Difficulties in maintaining one comprehensive set of development regulations that applies to development both within and outside of the coastal zone.
- e. Lack of training of City staff regarding statutory and procedural requirements for amending the certified LCP and necessary follow-up actions.
- f. Inadequate staffing at both the City and the Coastal Commission in recent years to allow timely follow-up and completion of the current LCP amendment application.
- g. General difficulties inherent in processing an LCP amendment for a comprehensive update of an LCP Land Use Plan and Implementation Program.

Based on the City's experiences, the following suggestions are offered for the City, other coastal communities, and the Coastal Commission, to help avoid these problems in the future:

Suggestions for City and other coastal communities:

- Maintain a separate and comprehensive document that contains development regulations for the coastal zone and constitutes the Implementation Program for the certified LCP. This document should be on file with the Community Development Department, City Clerk and Coastal Commission and should clearly specify the following information for all amendments: City LCP Amendment No.; City Ordinance No(s); Coastal Commission LCP Amendment No; Date of Coastal Commission Certification; Date of Executive Director check-off.

- Ordinance amendments that require subsequent certification by the Coastal Commission should clearly state that they are adopted as part of the LCP implementation program and should indicate that they will not become effective until the Executive Director check-off has been received.
- Ordinance amendments for coastal and non-coastal regulations should not be combined into one ordinance, as it makes it very difficult to compile an LCP amendment application for the coastal portions.
- Create a separate document containing the development regulations for the coastal zone. Maintaining a “hybrid” document actually complicates the administration of land use regulations in a City that has both coastal and non-coastal areas and does not make it easier for property owners and developers to understand development regulations.
- When preparing a comprehensive LCP update, take in to consideration the fact that the Coastal Commission will review the application as an “amendment” to the existing certified LCP. This may influence decisions about structure, contents and formatting of new documents.
- When hiring consultants to prepare LCP amendments, consider including in their contractual scope of services tasks to take the amendment all of the way through to Coastal Commission certification and Executive Director check-off.

Suggestions for the Coastal Commission

- While there are lots of classes offered for continuing education regarding California land use planning and CEQA, I have never seen a class offered regarding the nuts and bolts of administering Local Coastal Programs under the Coastal Act. It would be helpful if the Coastal Commission could contact the firms and institutions that provide continuing education for planners and public officials to establish such courses.
- The Coastal Act and its implementing regulations are contained in several different statutes and, over the years, interpretations and modifications have been made by the legislature, courts, the Commission, and staff. It would be helpful to have a general guide to all of these documents similar to the books on other State planning regulations that are regularly published and updated by Solano Press.
- Prepare a checklist for coastal communities that provides details on the procedural and submittal requirements for LCP amendments.
- Consider legislative changes that would allow comprehensive LCP updates to simply be reviewed for consistency with Coastal Act rather than undertaking the painstaking process of reviewing them as “amendments” to the existing certified LCP.
- Prepare a “model LCP” or “model” regulations for addressing the various topics covered by LCPs that could be adopted by local communities, if they so desire, without the need for exhaustive review during the certification process.

FISCAL IMPACT

The Council's discussion of these issues is related to policy and administration and will have no direct fiscal impacts on the City.

ALTERNATIVES

1. Receive report and (a) provide direction to staff to notice a public hearing on September 11, 2006 to adopt an updated resolution of transmittal; and (b) provide clarification regarding applicability of specific LUDC regulations in addition to the certified LCP in the coastal zone. **(This is staff's recommendation.)**
2. Provide alternative direction to staff.

RECOMMENDATION

Receive Report on Status of City's Local Coastal Plan Amendments.

ATTACHMENTS

1. August 24, 2006 transmittal letter to Coastal Commission
2. May 22, 2006 City Council minutes
3. Memo from Councilmember Melo and attached letter and resolution from former Coastal Commission Chair Mike Reilly

AGENDA & SUMMARY REPORT TO:

1. Bob Merrill, California Coastal Commission

3. Receive Report and Review Moura Townhome Project Application

Dose summarized the status of the Moura Townhome project application based on a memo that was distributed to the Committee.

Moura stated that he paid \$8,000 for a traffic study. He paid lots of money to have a parking lot designed, but it does not work well. He explained that he designed a lift station and that the site has problems with drainage. He submitted landscaping plans. City planners should not get involved in designing buildings for anybody.

Turner explained that City staff is entitled to disagree with applicants.

Goble explained that, while the Community Development Department acts as the messenger they are not the one making all the comments. Comments are compiled from sending out a request for comments to numerous agencies/departments.

Turner stated that he is in favor of crediting the whole deposit account back Moura. Hammerstrom stated that he agrees for the reason that he thinks it is very hard to sort out what would have been spent if processed entirely under Title 18. Turner noted that the recommendation to refund the account would be brought back to the City Council.

Discussion ensued relative to the project site design:

- Jackson noted that it would be difficult for the applicant to move the north driveway.
- Goble explained safety issues and noted a similar situation up at high school that has created real problems.
- Taubold argued that his plan is sufficient and complies with the Code. No changes are necessary.
- Ruffing requested that applicant exercise some flexibility.

Goble explained that since applicant does not want to construct the parking lot per the drainage plan that was submitted, additional drainage information will be needed. He noted that he does not know whether a lift station for the sewer can be avoided. He has spoken with the adjacent property owner but does not know whether an easement can be secured.

Jackson inquired as to whether the cul-de-sac is a requirement or whether there can be an exception. Goble explained that if there is some give and take, the applicant may be able to do an offset bulb. While hammerhead turnarounds have been adopted by the Fire Department, they have not been adopted by the City. If the applicant chooses to provide a reduced radius cul-de-sac which works Goble would not object. The Planning Commission has the ultimate authority based on staff's recommendation. He suggested that parking could be eliminated within cul-de-sac area and then the radius could be reduced.

Jackson asked what a "safe" driveway separation standard would be. Goble stated that, for two substantial projects adjacent to each other, a minimum of 50' is generally sufficient.

Discussion continued regarding interpretation of definition of floor area ratio (FAR) provided in LCP Section 18.72.205. Taubold explained his interpretation of the definition of FAR is that it only includes the areas within the interior boundaries of the exterior walls. While staff differs in their interpretation of the definition, Ruffing noted that there is a slight bit of ambiguity in the wording that could allow for the differing interpretation and that staff would go along with Mr. Taubold's interpretation.

Regarding affordable housing, the Committee noted that inclusionary requirements of the City's General Plan would apply to this project. Ruffing noted that requirements for inclusionary rental units are provided in LUDC Section 18.32.080. Moura indicated that he does not have a problem with that as his intent is to provide affordable housing.

Taubold noted that only map he could find that shows runoff special review areas was in the 1983 LCP and that he could not decipher it.

Ruffing recapped the outcome of the discussion as follows:

- (1) A grading and drainage plan is necessary as the previous plan assumed that the parking area would serve as a sump.
- (2) The issue about whether a lift station or an easement would be used to convey wastewater will need to be reviewed.
- (3) A bulb cul-de-sac is needed at the end of Hazelwood. If parking is eliminated on the cul-de-sac, it may be possible to decrease the radius.
- (4) The north driveway needs to be relocated to provide separation. A 50' separation would be ideal from a safety standpoint.
- (5) The parking spaces that are within 15' of the driveway entry will need to be eliminated.
- (6) The architect's interpretation of how to calculate FAR will be used for this project.
- (7) The applicant will comply with the inclusionary housing requirements of the General Plan.
- (8) The City will credit the entire \$1,500 back to the applicant's deposit account.