

Michael W. Stamp
Molly Erickson

STAMP | ERICKSON
Attorneys at Law

479 Pacific Street, Suite One
Monterey, California 93940
T: (831) 373-1214

January 8, 2019

Hearing Submittal
Agenda Item 3/ GPZ090005
Submitted via email by the Public 1/8/19
Distributed at hearing 1/9/19

Keith Vandever, Chair
Planning Commission
County of Monterey
168 West Alisal Street
Salinas, CA 93901

Re: Jan. 9, 2019, item 3 - GPZ090005, Moss Landing Community Plan update

Dear Chair Vandever and members of the Planning Commission:

I represent the Friends, Artists and Neighbors of Elkhorn Slough, known as FANS. FANS members have participated as public interest participants in the Moss Landing community plan update process from 2008 to the present.

FANS has attended every one of the "community" meetings in 2018 to review draft plan policies. At the meetings, 75-80% of attendees have been from public agencies and from commercial property owners/developers. At most there were up to four local residents, often only one or two, plus FANS as the sole public interest participant. There often was disagreement between the groups.

Unfortunately, the staff report's references to "the community input" – implying unanimity – are inaccurate because meeting attendees were often not in agreement. As a result, the staff report does not give an accurate presentation of the policies and comments of the community. Numerous discussions are not accurately reflected.

The issue is not how many attendees want something. The issue is what is the best policy. The input from the various community participants is not accurately presented to you in the staff report and attachments. Some of the proposed policies before you do not reflect the input from residents and public interest FANS. Some policies simply make no sense and have not been presented to the community.

It is discouraging to FANS to spend significant resources and time to be involved, attend meetings, and participate in good faith, only to have staff unilaterally change text based on staff's opinion instead of what is the best policy. The whole point of the community meetings was to try to avoid multiple lengthy Planning Commission meetings where issues are raised for the first time. Unfortunately, the process is not being implemented as the Planning Commission directed and intended.

Request: The Commission should not finalize the policies today. The Commission should direct that these newly proposed/revised policies be provided to the community for review and input.

Some Specific Examples of the Problems.

As to Policy No. NCLUP-ML-5.6, the community agreed on this language:

[Include introduction/purpose statement] The County of Monterey shall maintain an official list of historical sites and maintain a registry program to protect and preserve historical landmark sites and districts.

Now staff is recommending deleting the policy entirely because staff claims that a 1982 General Plan policy says something similar. First, the 1982 policy is different, and says something else, and does not address the purpose: to protect and preserve historical landmark sites and districts. Second, The Community has not agreed with this deletion. The Commission should not endorse deleting a policy that the community wants and agreed to.

MLCP Policy 5.19 as proposed by County staff is this:

The County of Monterey shall seek funding to install or retrofit street lights that meet dark sky criteria, provide safe travel, direct lighting such that sensitive resources are not adversely affected and produce minimum glare.

It makes no sense for a community plan policy to talk about seeking funding. That can be in the CIP as part of implementation of the plan. A better true policy is:

The County of Monterey shall require street lights that meet dark sky criteria, provide safe travel, direct lighting such that sensitive resources, residents, pedestrians and drivers are not adversely affected, are of a warm color tone, and avoid glare.

As to Policy No. NCLUP-ML-5.5, the community input was this:

The County of Monterey shall conserve the unique cultural, historic, and archaeological resources of Moss Landing to the greatest extent possible ~~while protecting private property rights.~~

FANS and others pointed out that laws already protect private property rights. No further mention is appropriate in the community plan policy. If the County includes the stricken language in a community plan policy it would imply that the County will not do anything that affects private property rights, even when an important cultural, historic and archaeological resource is at risk. The staff report ignores this important

community input that recommended striking the language as shown above. By omitting this important information, the staff has not given the commission a fair and accurate information about the community input and process.

As to proposed Policy No. NCLUP-ML-5.14, staff is proposing that the Commission reject the community input for no good public policy reason. The staff report claims "The intent of this policy is to identify that, in addition to the base zoning district, all properties within the community plan boundary will include a Design Control overlay zoning district." But that is not the point of a good policy. A good policy is to keep community character in line with existing and defined community character and design. That policy should be implemented by a Design Control Overlay district that is properly part of a CIP. For no apparent reason Staff has unilaterally rebuffed the "Community Recommendation – The community suggested language be modified to clarify that the different neighborhoods within the community plan have their own character and therefore design guidelines should make provisions for each one." If staff wants to work out new language, the staff should present it to the community first.

As to the staff-proposed Policy No. NCLUP-ML-5.18, the proposed policy is not what the community comments said. Community comments were for a design review committee, instead of a "Moss Landing Land Use Advisory Committee."

Summary and Request

The point of the community meetings was to try to avoid battles in front of the Planning Commission. Unfortunately, when staff ignores community input, it places the battle back in front of the Commission and drags out the process further. As a separate point, there is no evidence that the Coastal Commission staff has agreed to the new drafts of these policies newly presented here to the Planning Commission.

Request: The Commission should not finalize the policies today. The Commission should direct that these newly proposed/revised policies be provided to the community and the CCC staff for input.

Thank you for your consideration.

Very truly yours,

STAMP | ERICKSON

Molly Erickson

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HEARING SUBMITTAL	
PROJECT NO./AGENDA NO.	67209005/3
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January 9, 2019

Mr. Keith Vendevere, Chair
Monterey County Planning Commission
1441 Schilling Place
Salinas, CA 93901

RE: Moss Landing Community Plan

The Monterey Bay Aquarium Research Institute (MBARI) supports Monterey County’s current efforts to update the Moss Landing Community Plan (MLCP) and its work to include the community’s thoughts and suggestions. MBARI has been a regular and active participant in the community meetings. MBARI is, at the same time, concerned with any additional layers of regulation and processes that will add costs and time for the evaluation of new development to an already thorough process.

MBARI believes it is essential that, as the MLCP process moves forward, care be taken to avoid policies which are unduly constraining or might result in unintended consequences. Policies should be developed with a clear eye on how they are to be implemented and any effects they may have on the owners and persons who might wish to make beneficial use of their property or to proceed with long-established development plans.

Development in the Coastal Zone is very broadly defined by the Coastal Act and the County’s Title 20 (Title 20 definition attached). Policies which mandate an action for “all development” or similar language should be very carefully examined to be sure that minor work, where there are no known resources or restraints, which could fall under the definition of development, are not unnecessarily subjected to the same level of review as wholly new development.

An example of this is proposed policy NCLUP-ML-5.11 which would require “all development projects” in the MLCP area to be reviewed by the Historic Resources Review Board (HRRB). The staff then indicates the Coastal Implementation Plan (CIP) “will refine the types of projects to be considered...” The concern with this approach is that if the policy requires “all development projects” to go to the HRRB, how much “refinement” can be done via the CIP?

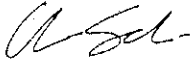
A similar issue arises from proposed Policy NCLUP-ML- 5.10. This policy would require that a tribal representative be on-site to monitor “all earth moving activities.” This policy, as written, would require a monitor for any activity which entailed earth moving, regardless of the amount

of earth being moved or for what purpose, whether or not there was any evidence of resources at the project site.

MBARI is also concerned with viewshed policies such as Policy NCLUP-ML-5.14, which proposes to "maximize the preservation of the public viewshed." The Design Guidelines to be developed will need to be carefully reviewed to assure that there is flexibility and to assure that maximum "preservation of the public viewshed" does not preclude uses that are appropriate and consistent with the MLCP, North County Land Use Plan, and the Coastal Act.

MBARI believes in and supports the basic principle that Moss Landing is a special place with special resources. The MLCP will be essential to protecting those resources and enhancing the future of the community. We look forward to our continuing work with the community, the staff, and the Planning Commission to complete the long-awaited MLCP update.

Sincerely,



Chris Scholin
MBARI President and CEO

20.06.310 DEVELOPMENT.

Development means, on land, in or under water:

1. placement or erection of any solid material or structure, including but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line;
2. discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;
3. grading, removing, dredging, mining, or extraction of any materials, including excavation and filling which requires environmental review pursuant to the Monterey County CEQA Guidelines.
4. change in the density or intensity of use of land, including but not limited to:
 - a) subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code);
 - b) lot line adjustments;
 - c) any other division of land, including lot splits; and,
 - d) conditional certificates of compliance pursuant to the Subdivision Map Act;
5. change in the intensity of use of water, or of access thereto;
6. expansion or construction of water wells, surface water diversions, or septic systems, except for replacement thereof;
7. construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility;
8. removal or harvesting of major vegetation including land clearing pursuant to Chapter 16.12 and removal of natural vegetation specified in the applicable ordinances as requiring a coastal development permit. "Development" shall not include removal or harvesting of major vegetation for agricultural purposes, except in North County as per Section 20.144.080.A, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Zberg-Nejedly Forest Practice Act of 1973 (commencing with Section 45111);
9. any project within 750 feet of a known archaeological resource, as per sections shown on current County Resource Maps or other available information;
10. tree removal as per sections 20.144.050.A, 20.145.060.A, 20.146.060.A, and 20.147.050.A.
11. granting of transferable density credits pertaining to a lot in the critical viewshed of Big Sur, pursuant to Chapter 20.64.190.