

CALIFORNIA COASTAL COMMISSION

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Draft Sustainability Principles

March 8, 2023

CORRESPONDENCE

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Subject: Fwd: Public Comment on March 2023 Agenda Item Wednesday 6e - Draft Sustainability Principles
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FYI

Begin forwarded message:

From: Christopher Pederson <cpedersonlaw@gmail.com>
Subject: Public Comment on March 2023 Agenda Item Wednesday 6e - Draft Sustainability Principles
Date: March 3, 2023 at 4:57:54 PM PST
To: ExecutiveStaff@coastal.ca.gov

Dear Chair Brownsey and Commisioners:

Thank you for initiating this potentially transformative process of articulating principles for how the Commission and local governments should apply the Coastal Act to minimize greenhouse gas emissions that are disrupting the climate and imperiling coastal resources. The proposed Draft Sustainability Principles bring long overdue focus and attention to the Coastal Act policies that are crucial for any meaningful effort to reduce carbon pollution. Disappointingly, however, the draft does not articulate with sufficient urgency and specificity what needs to change if the Commission and local governments are to substantially reduce greenhouse gas emissions. Proclaiming an inspiring set of principles will accomplish little if the Commission, local governments, and the legislature do not change past practices and overcome current obstacles.

Why does this matter and what can the Commission do?

According to the California Air Resources Board (CARB), transportation is by far the single largest source of carbon pollution in the state, accounting for half of the state's greenhouse gas emissions. (CARB, 2022 Scoping Plan for Achieving Carbon Neutrality, p.184 <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf>) Numerous approaches will be necessary for reducing carbon pollution, but reducing vehicle miles traveled (VMT) is indispensable for achieving the state's climate goals. (2022 Scoping Plan, p. 192, Appendix E (Sustainable and Equitable Communities), pp. 4-6 <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-e-sustainable-and-equitable-communities.pdf>.)

One of CARB's strategic objectives for achieving VMT reductions falls squarely within the Commission's and local governments' responsibility: to "[e]ncourage future housing production and multi-use development in infill locations and other areas in ways that make future trip origins and destinations closer together and create more viable environments for transit, walking, and biking." (2022 Scoping Plan, pp. 193-94.) So to is one of the core strategies for achieving that objective: "[a]ccelerat[ing] infill development and housing production at all affordability levels, with a focus on housing for lower-income residents." (2022 Scoping Plan,

p. 195.)

These objectives and strategies will be difficult to implement and achieve and have significant environmental justice implications. As CARB explains:

"Sustained VMT reductions have been difficult to achieve for much of the past decade, in large part due to entrenched transportation, land use, and housing policies and practices. Specifically, historic decision-making favoring single-occupancy vehicle travel has shaped development patterns and transportation policy, generating further growth in driving (and making transit, biking and walking less viable alternatives). These policies have also reinforced long-standing racial and economic injustices that leave people with little choice but to spend significant time and money commuting long distances, placing a disproportionate burden on low-income Californians, who pay the highest proportion of their wages on housing and transportation."

(2022 Scoping Plan, pg. 193.) The predominantly car-oriented, low-density character of urbanized areas of the coastal zone not only excludes lower income households and drives high VMT, but it also increases the energy demand associated with heating, cooling, and constructing sprawl. (2022 Scoping Plan Appendix E, pp. 5-6.) The low density of much of the urbanized coast also increases pressure for more development in inland areas with a more extreme climate, further increasing energy demand for heating and cooling.

Coastal Act Context

The Coastal Act provides the Commission and local governments with strong authority to help the state accomplish its objectives and strategies for reducing VMT and carbon pollution. The Coastal Act requires new development to:

- minimize energy consumption and vehicle miles traveled (Section 30253(d)),
- be concentrated within or in close proximity to already developed areas (Section 30250(a)),
- to facilitate transit service (Section 30252(1)),
- to locate commercial and residential uses in close proximity in order to limit driving (Section 30252(2)),
- to provide for non-automobile circulation (Section 30252(3)), and
- to assure the potential for public transit for high-intensity uses (Section 30252(5)).

It further allows the provision public transit to substitute for any parking requirements. (Section 30252(4)). The Coastal Act also requires the Commission to encourage housing opportunities for low- and moderate-income persons and to allow density bonuses for eligible multifamily housing so long as the bonuses comply with Chapter Three or the applicable LCP. (Section 30604(f).) The Commission may also consider environmental justice and the equitable distribution of environmental benefits statewide. (Section 30604(h).) Finally, the Act acknowledges that Coastal Act policies may sometimes conflict and that

broad policies that serve to concentrate development in close proximity to urban and employment centers tend to be more protective overall than specific resource protection policies. (Section 30007.5.)

Despite this ample authority, almost all of which has been in the Coastal Act since it was first enacted almost half a century ago, most urban areas of the coastal zone continue to be predominantly upper income, disproportionately white, low density, and heavily car dependent. The ways that the Commission and local governments are implementing the Coastal Act must change. Some changes the Commission can do on its own, some require the cooperation of the Commission and local governments, and some require legislative action.

Local Coastal Program Updates

The most significant change requires the cooperation of the Commission and local governments: updating LCPs to allow much more infill multifamily housing in residential and commercial areas. This is most important in areas close to commercial and employment centers, schools and other institutions, and transit lines, and in areas that are walkable and bike-able. Even in areas where LCPs allow multifamily housing, excessive parking requirements limit the amount of housing that can actually be constructed, drive up the cost of what is constructed, and foster increased driving. LCP transportation policies that emphasize making driving as convenient as possible - too often at the expense of transit, walking, and biking - fuel even more VMT.

Some statewide statutes to spur more multifamily housing, such as the accessory dwelling unit (ADU) statute and the density bonus statute, apply in the coastal zone, but require Coastal Act compliance. (See Gov. Code, §§ 65852.2(1), 65915(m).) The Coastal Act, of course, requires new development to comply with applicable certified LCPs, which almost universally include detailed zoning code requirements that often have little bearing on Chapter Three policies. Although outside the coastal zone those technical requirements generally cannot stand in the way of ADUs and density bonus housing, in the coastal zone they too often do. The Commission should work with local governments to amend their LCPs, including their land use plans, to specify that ADUs and density bonus housing are entitled to exceptions from technical LCP requirements so long as the resulting structures comply with fundamental Chapter Three requirements.

The Commission should revise the Draft Sustainability Principles to emphasize the need for local governments to update their LCPs in these respects. The Commission's inability to require local governments to update their LCPs, however, means that these necessary changes to LCPs are unlikely to occur at the scale and with the speed that the climate crisis and the housing crisis require.

Other impediments to reducing greenhouse gas emissions from the coastal zone lie within the Commission's authority to fix.

Statutory Interpretations

The Commission's own interpretation and implementation of the Coastal Act too

often stand in the way of infill multifamily housing and efforts to promote transit, walking, and biking. This plays out both in the Commission's interpretation of Chapter Three policies and in its implementation of its regulatory authority. The Draft Sustainability Principles provide the Commission with the opportunity to articulate interpretations of Chapter Three policies that comply with and implement previously neglected or misapplied Coastal Act policies - and to do so in ways that advance the state's climate goals.

Public access and visual protection are the two most prominent examples of Chapter Three policies that the Commission has often implemented in ways that thwart the state's climate goals and contradict the Coastal Act's policies regarding transportation and concentration of development.

Public Access & Transportation

Of course, protecting and promoting access to the coast is a primary goal of the Coastal Act. (Sections 30001.5(c), 30210-30214.) The Coastal Act policy that specifically addresses the relationship between public access and transportation, Section 30252, prioritizes ways to minimize automobile traffic: facilitating public transit, locating residential and commercial development in proximity to each other in order to reduce driving, providing for non-automobile circulation, and assuring the potential for public transit for high-intensity uses. Where parking demand from development may affect public access, the policy does call for "adequate" parking, but only when alternate means of serving the development by transit are not provided. The Act does not specify what qualifies as adequate parking. That must be determined by reference to other relevant Coastal Act policies, including not only the Act's other public access policies, but also policies to concentrate development, minimize energy consumption and VMT, and promote low- and moderate-income housing. Notably, no policy of the Coastal Act calls for maximizing the convenience of car driving.

Although the Commission has from time to time taken steps to facilitate transit, walking, and biking, it has overwhelmingly emphasized ensuring an abundant and cheap (preferably free) supply of parking and minimizing local traffic congestion. That has often taken the form of very strict off-street parking requirements, frequently mandating two or more parking spaces for each household, and enforcement of car-focused traffic level-of-service (LOS) standards. Excessive parking requirements drive up the cost of housing and often either force reductions in the amount of housing or render multifamily housing entirely infeasible. Where provided, the availability of abundant parking tends to reduce overall density, undercuts public transit, increases traffic, and degrades conditions for walking and bicycling. For these reasons, CARB calls for eliminating or reducing off-street parking requirements. (See 2022 Scoping Plan, Appendix D (Local Actions) <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf> pp. 11, 22-23; Appendix E, pp. 27-28.)

Policies that stress minimizing traffic congestion rather than reducing VMT can have the perverse effect of increasing traffic. Efforts to minimize congestion by widening roads and managing traffic signals to emphasize vehicle speed and throughput encourage more driving and often come at the expense of walkability

and bike-ability. Efforts to minimize local congestion by limiting residential density end up causing more regional traffic by promoting low-density sprawl. They thereby also contribute to the host of environmental and social problems associated with sprawl. For these reasons, the legislature directed the Office of Planning and Research and the Natural Resources Agency to update the CEQA Guidelines regarding the environmental impacts of transportation to focus on greenhouse gas emissions rather than on traffic congestion. (See Cal. Stats. 2013, ch. 386, § 1 (SB 743); Pub. Resources Code, § 21099; CEQA Guidelines, 14 Cal. Code Regs., 15064.3.)

The Commission should therefore revise the draft Sustainability Principles to clarify that the Coastal Act's transportation policies focus on reducing VMT and reliance on the automobile and to recommend facilitating more housing in urban areas close to other destinations, reducing off-street parking mandates, and improving road, sidewalk, and path networks to promote safe and convenient transit, walking, and biking.

View Protection & Concentration of Development

The Commission's application of the the Coastal Act's visual protection policy, Section 30251, has also too often played out in counterproductive ways. The policy's strongest protections are for views to or along the ocean and scenic coastal areas. It otherwise requires development to be "visually compatible with surrounding areas." Visual compatibility - often characterized as protection of community character - does not mean that new development must be no larger than other the structures in the neighborhood. The interpretation that is most consistent with Coastal Act policies requiring concentration of development, minimization of energy consumption and VMT, and promotion of modes of transport other than the automobile is that the requirement for visual compatibility is intended to limit development that is dramatically out-of-scale or of a totally different type than the surrounding neighborhood. Thus, a high-rise office building might not be visually compatible with a predominantly low-rise residential neighborhood, whereas a medium-scale apartment building would be. For example, many pre-1950s residential neighborhoods contain a mix of single-family homes, duplexes and triplexes, and small apartment buildings.

To construe the Coastal Act's visual protection policy as prohibiting the introduction of multifamily housing into lower density residential neighborhoods conflicts with other Coastal Act policies regarding concentration of development, minimization of energy consumption and VMT, and promotion of non-automobile modes of transportation. Where Chapter 3 policies conflict, the Coastal Act states that broader policies regarding concentration of development tend to be more protective of significant coastal resources than more specific resource protection policies, which would include the visual resource protection policy. (Section 30007.5.)

The Commission should therefore revise the Draft to state that Section 30251 should be interpreted as generally allowing the introduction of multifamily housing in urbanized areas, including single-family residential neighborhoods, especially when those neighborhoods are close to employment or commercial

centers, schools or other institutions, transit routes, or are conducive to walking and bicycling.

Environmental Justice

Some passages in the Draft suggest that bringing new or improved services or amenities to lower-income coastal neighborhoods can raise environmental justice concerns by worsening gentrification and displacement. The specific example used in the Draft is urban greening programs (Draft, pg. 9), but the same reasoning would apply to any effort that provides new or improved services or amenities to low-income neighborhoods. In addition to urban greening, these could include new transit services, improved bus stops, protected bike lanes, and safer pedestrian facilities. Although these projects could indeed increase property values in lower-income neighborhoods that previously lacked them, the primary underlying cause is the lack of sufficient housing in more affluent neighborhoods, many of which are in the coastal zone. And depriving low-income neighborhoods of urban greening, safe and convenient transit, and safe pedestrian and bicycle infrastructure is itself an environmental justice concern. (See Section 30604(h) (Commission may consider the “equitable distribution of environmental benefits”.)

The way to address gentrification and displacement that is most consistent with environmental justice, and with other Coastal Act policies, is to ensure that affluent neighborhoods provide substantially more housing and to ensure that all neighborhoods provide affordable housing. Refusing benefits and services to low-income neighborhoods is not the way to go. The Commission should revise the Draft to clarify that, although the Commission is cognizant of and will consider gentrification and displacement concerns, the Commission will not respond to those concerns by depriving lower-income neighborhoods of services, infrastructure, and amenities that reduce greenhouse gas emissions and provide other environmental benefits.

Procedural Changes

Coastal Act permitting procedures can also be an obstacle for infill multifamily housing. The Act and the Commission’s regulations include a variety of provisions to exempt or streamline Coastal Act review of new or expanded single-family residences. (See Sections 30610(a), 30610.1, 30624; Cal. Code Regs., tit. 14, § 13250.) In urban areas that aren’t on the immediate shoreline, it can often be comparatively easy to get Coastal Act approval to build a large new house or to convert a small existing house into a much larger one. Regulatory exemptions for improvements to existing structures, however, expressly do not apply to proposals to add more residential units to existing structures and new larger infill multifamily structures do not currently qualify for streamlined review. (Cal. Code Regs., tit. 14, §§ 13250(a)(2), 13253(b)(7).)

The Commission should revise the Future Actions section of the Draft to commit to adopting categorical exclusion orders to exempt proposed new infill multifamily housing from permit review in areas where such housing will not have significant adverse effects on coastal resources. (See Section 30610(e); Cal.

Code Regs., tit. 14, § 13243.)

The Commission should also commit to amending its regulations regarding permit exemptions for improvements to existing structures. (Cal. Code Regs., tit. 14, §§ 13250, 13253.) The should be expanded to apply to the addition of residential units to existing structures, except in sensitive areas such as along the shoreline or adjacent to sensitive habitat.

Statutory Amendments

Although the Commission and local governments have extensive authority to act now, legislative action is necessary to ensure action occurs at the urgent pace and wide scope necessary to address climate disruption. The Commission should revise the Future Actions section of the Draft to advocate for statutory changes such as the following:

- Require local governments to adopt LCP amendments to allow substantially more multifamily housing in urban areas of the coastal zone, to revise development standards that unnecessarily impede multifamily housing, and to revise transportation and parking requirements so that they facilitate transit, walking, and bicycling and minimize VMT. The legislation should include enforceable deadlines and also simplify procedural requirements in order to expedite adoption of these LCP amendments. Finally, it should provide adequate funding for both the Commission and local governments to carry out these new requirements.
- Amend statewide housing statutes to clarify their applicability in the coastal zone and to require of approval of ADUs, density bonus housing, and other infill multifamily housing in urbanized areas of the coastal zone so long as it does not result in substantial adverse effects on significant coastal resources.
- Establish streamlined Coastal Act review procedures for infill multifamily housing in urbanized areas.

Thank you for your consideration of these comments on this important matter.

Sincerely,

Christopher Pederson