

People for Ponto apologize for this late and hastily, review and comments. We just found out about the meeting this morning. We citizens know we can together achieve grate things if you allow us to work with you.

Staff
Report

Page clarification/correction:

1 The LCP Land Use Plan Update is in fact an Amendment to an Existing LCP Land Use Plan. The Existing LCP Land Use Plan is already certified by the CA Coastal Commission as being consistent with the CA Coastal Act, except for some Amendments needed to address Sea Level Rise impacts and some other issues.

The LCP Amendment proposes to change the Existing CA Coastal Commission certified LCP Land Use Plan's "Non-residential Reserve" Land Use and Policy on Planning Area F to consider and document the need for "i.e. Public Park" at Ponto .

- 1 Staff summarizes the CA Coastal Act objectives to "ensure maximum public access to the coast and public recreation areas."
 - Carlsbad's Adopted Park Service Area/Equity Mapping shows there is no Park Service for the Ponto Area and Ponto Citizens, and no Park Service for the Coastal South Carlsbad area west of Interstate-5 and the rail corridor.
 - The City's mapping of land that meets the developer required Growth Management Open Space Standard of 15% Unconstrained land shows about 30-acres of this Open Space is missing at Ponto. This missing Open Space could have provided needed Park facilities that are missing at Ponto.
 - Citizens in over 2,500 emails to the City Council have cited the need for a Public Park at Ponto as part of the Existing LCP Land Use Plan Amendment proposed at Ponto. These requests area consistent with the CA Coastal Act.
- 3 2nd bullet: says city staff proposes to replace, amend, or retain various Existing LCP policies, so the Staff has a documented understanding how each Existing LCP policy and how each Existing policy is being treated in the proposed Amendment. Citizens asked in Oct 20, 2019 for this 'redline' version of the Existing LCP Policies and Land Use Maps so citizens can understand what the Amendments are so we as citizens could then provide informed public comment. This 'redline' version is also important for the City Council and Planning and other Commissions so they know what Amendments to Existing City LCP Land Use policy are being proposed. Citizens again request this 'redline' version that it appears the staff already has as they know what Existing LCP Land Use policies are being replaced, amended, or retained.
- 4 V is incomplete: the community asked on Oct 20, 2019 for 3 things: 1) a 'redline' version as noted above, 2) true Public Workshops to help inform and resolve community concerns about the proposed LCP land Use Plan Amendments, and 3) more public review time to provide for the above two other requests. All 3 requests should be acknowledge in the staff report. All 3 requests are rational and reasonable considering the proposed Draft LCP Land Use Plan

Amendment is the “buildout” plan for Carlsbad’s Coastal Zone and there were multiple documented fundamental “planning mistakes” regarding past City public information and participation in the Coastal Land Use planning. Providing such a process would help to correct these documented ‘planning mistakes’ that have gone on for many years. It is the right thing to do and most productive approach for all concerned.

- 7 Staff should accurately disclose that in 2010 the CA Coastal Commission in fact rejected the City’s proposed Ponto Beachfront Village Vision Plan for failing to disclose and comply with the then and current LCP Land Use Plan policy for Planning Area F at Ponto. Carlsbad Public Record Requests confirmed the staff did not disclose to citizens the existence LCP Land Use Plan policy for Planning Area F at Ponto, so citizens had no idea a Public Park at Planning Area F at Ponto needed to be considered. How can citizens, provide input if they don’t have complete and accurate to review and comment on?
- 8 Staff should correctly disclose that the 2015 application at Planning Area F at Ponto is first for a Local Coastal Program Amendment and Master Plan Amendment. These are both applications to change City Land Use Plan Policy and Zoning regulations. The actual applications for ‘development’ permits can in fact not even be considered by the City the Local Coastal Program Land Use of “Non-residential Reserve” is changed and Master Plan rezoning is approved. Then the ‘development’ permit application can applied for. The developer abandoned their application to change the LCP and Master Plan and then apply for developer permit review about a year ago. However, the city staff is keeping the application ‘alive’ even though there has been no progress on the application for over a year. It is unclear if the staff has authority to do this, or if the City Council has authority to withdrawal the application due to non-activity. The City has permit standards that withdraw applications if applicants make no progress on the applications after 6-months. What is troubling is that it appears the city staff proposal is to process the developer’s application to change the Existing LCP Land Use Plan for the developer.

Staff notes that the Planning Area F sites now designated as Residential R-23 and General Commercial by the Carlsbad General Plan Update. However, staff fails to disclose that until the Existing LCP Land Use Plan Amended is in fact approved by the CA Coastal Commission the Existing LCP Land Use Plan for Planning Area F supersedes the City’s General Plan Update. **Carlsbad’s General Plan Land Use Element clearly states this on page 2-26 “The city’s LCP Land Use Plan will be updated consistent with this General Plan. However, to take effect, the LCP must be certified by the Coastal Commission as well as adopted by the city. Until such time that this occurs, the existing (as of 2013) LCP must be adhered to.”** So until the City Council adopts the staff’s proposed Draft LCP Land Use Plan Amendment, AND the CA Coastal Commission “certifies” that LCP LUP Amendment; the City’s General Plan Update Land Use change cannot take effect. The General Plan Land Use at Ponto Planning Area F has in fact not been changed by the General Plan Update, but can only change with staff’s proposed Draft LCP Land Use Plan Amendment that the City Council can choose to approve or disapprove. Also official Public Records Requests have documented that the City’s General Plan Update planning process was fundamentally flawed at Ponto. Again, like during Ponto Beachfront Village Vision Plan planning process a few years earlier the city failed to comply with the then and current LCP Land Use Plan policy for Planning Area F at Ponto. The flawed General Plan Update process at Ponto prevented Citizens from knowing the facts so they could properly participate and provide review and comment during the General Plan Update. The significant citizen comments to the City Council asking for a Ponto Coastal Park is reflective of the fundamental public disclosure

and processing flaws that the city is only now acknowledging as one of the repeated 'planning mistakes' at Ponto. This is why citizens are asking for full disclosure of the facts and a complete planning process re-boot at Ponto. It also should be noted that the Existing LCP Land Use Policy for Planning Area F states that **"as part of any future planning effort ... consideration of a "Public Park" is required.** CA Coastal Commission Staff has indicated the City's proposed land use planning changes at Ponto as part of the General Plan Update are subject to change.

At the bottom of the page regarding SB 330, as noted above the "residential land use designation on the site" is not in effect until the currently proposed LCP Land Use Plan Amendment is both approved by the City Council AND also certified by the CA Coastal Commission, so SB 330 does not apply. Also SB 330 has specific language that exempts land use in the Coastal Zone. SB 330 (Skinner) Section 13 states: **"(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976** (Division 20 (commencing with Section 30000) of the Public Resources Code). **For a housing development project proposed within the coastal zone, nothing in this section shall be construed to prohibit an affected county or an affected city from enacting a development policy, standard, or condition necessary to implement or amend a certified local coastal program consistent with the California Coastal Act of 1976** (Division 20 (commencing with Section 30000) of the Public Resources Code)." This language is consistent with CA case law, and other housing laws that recognize the obvious – there is very limited amount of Coastal land v. significant land area inland. Limited Coastal Land per the CA Coastal Act is needed for "High-Priority" Coastal Land Uses" - i.e. Coastal Recreation and Low-cost visitor accommodations. The CA Coastal Act identifies both residential and general commercial land uses as "low-priority". So although affordable housing is important there are other more appropriate locations, than on the last remaining vacant Coastal land in Carlsbad will be needed to address the "High-Priority" Coastal Land Uses to serve Carlsbad and California's 'buildout' needs. CA case law recognizes the supremacy of the CA Coastal Act over CA Housing Laws as noted in "Kalnel Gardens, LLC v. City of Los Angeles". This case law data has already been provided to the City Council as part of Staff's housing discussions over the past few years. The staff report should have disclosed the above information, as it appears SB 330 is not a factor at Ponto.

- 13 2005-2010 Housing Element: As noted above the General Plan Land Use Element states the General Plan Land Use Plan is not effective until the proposed Draft LCP Land Use Plan Amendment is both approved by the City Council AND certified by the CA Coastal Commission. So, the Housing Element Cannot recognize the proposed residential use change at Ponto until then. Also as noted before there were multiple documented fundamental 'planning mistakes' in public disclosure, participation and process that flawed the Housing Element. It should be noted that these flaws occurred during the time the CA Coastal Commission specifically rejected the Ponto Beachfront Village Vision Plan due to those flaws. The now City acknowledged 'planning mistakes' at Ponto prevented Carlsbad citizens from providing informed participation during the Housing Element.

Also, it is unclear why the staff misrepresented the amount of housing proposed in the Housing Element on the Ponto Planning Area F site as "the Ponto site for high density residential use at a minimum density of 20 dwellings per acre (128 units minimum)"; as this is not true. The City's General Plan promises only the minimum 15 dwelling units/acre for the R-23 Land Use designation. See the "Ponto" unit capacity table below from the City of Carlsbad General Plan Housing Element Table B-1 on page B-2 that lists 98 dwellings for the site on the east side of

Ponto Road and 11 **optional dwellings** on the west side of Ponto Road for 109 total units for both sites, v. the 128 units mentioned by staff. Not sure why staff misrepresented the density by 17 to 30%.

Table B-1: Vacant Sites for Lower and Moderate Income Housing						
APN	General Plan Designation ¹	Zoning District	Site Size (Acres)	Unit Capacity, by Household Income		
				Very Low	Low	Moderate
2090901100 (Sunny Creek)	R15 (12 du/ac)	RD-M	9.6	-	-	115
2161404300 (Ponto)	R23	P-C	6.5	-	-	98
	GC (Mixed Use) ³	P-C	3	-	-	11

2007 Ponto Beachfront Village Vision Plan: As noted several times above there were fundamental public disclosure and participation flaws with this plan. It was rejected by the CA Coastal Commission in 2010 part for those reasons. These flaws are confirmed by the City’s own data as a result of multiple Official Carlsbad Public Records Requests. This should be disclosed to the City Council and citizens.

- 14 2015 General Plan Update: As noted several times above there were fundamental public disclosure and participation flaws with this Update with regards to Ponto. These flaws are confirmed by the City’s own data as a result of multiple Official Carlsbad Public Records Requests. This should be disclosed to the City Council and citizens.

Citizens are asking the City Staff and City Council:

- for honesty, to fully and publicly recognize and disclose the past “planning mistakes” at Ponto, and fundamental flaws from the from those mistakes that prevented citizens from knowing about and participating in the planning process for Ponto.
- To keep the Existing LCP Land Use Plan at Ponto until a new open-honest and inclusive Community-based planning process can be achieved at Ponto.
- To be honest with respect to Park Serve Area and Equity issues at Ponto and Coastal South Carlsbad west of I-5 and the rail corridor.
- Consider the needs for inland South Carlsbad citizens, visitors and business to have their ONLY Coastal Park.
- Consider the larger regional Coastal Park need, and the forever ‘buildout’ Coastal Recreation needs for future generations.
- To be true and honest in translating and implementing our Community Vision