STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

RECORD PACKET COPY

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TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: Peter Douglas, Executive Director
Tami Grove, Deputy Director
Elizabeth Fuchs, *AICP*, Coastal Program Manager
Charles Lester, Central Coast District Manager
ReCAP Project Staff

SUBJECT: **EXECUTIVE SUMMARY: PRELIMINARY REPORT ON THE PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY LCP**

California Coastal Act section 30519.5 requires that the Coastal Commission periodically review certified Local Coastal Programs to determine whether they are being effectively implemented in conformance with the Coastal Act. Accordingly, staff has prepared a report that identifies preliminary options for improving LCP implementation in San Luis Obispo County. The *Preliminary Report on the Periodic Review of the San Luis Obispo County LCP* provides an initial framework for important public policy discussions concerning a variety of coastal resource protection issues in the County. These include environmentally-sustainable urban development, coastal water quality protection, maintaining agriculture and scenic rural landscapes, and preservation of sensitive species and habitats. Before summarizing these issues, it is important to understand the fundamental role of *Periodic Review* in the Commission's coastal management program.

LCP PERIODIC REVIEW & THE PARTNERSHIP WITH LOCAL GOVERNMENT

The Commission's partnership with local government is the cornerstone of coastal management in California. Under the Coastal Act, counties and cities are responsible for achieving statewide coastal resource protection goals through the implementation of Local Coastal Programs (LCPs). Working with local governments, the Commission initially assures that the goals of the Coastal Act are integrated into these LCPs, and that they contain policies and procedures adequate to protect coastal resources of local and statewide importance. But once an LCP is certified by the Commission, local governments assume the principal responsibility for issuing coastal development permits. Local governments such as San Luis Obispo County also become the custodians of their LCPs, and play a vital role in keeping these plans current and responsive to environmental and social change. Since certification of its LCP in 1988, San Luis Obispo County has amended its LCP 26 times. Of course, many of these were piecemeal changes to the LCP, highlighting the need for comprehensive updates. Most recently, the County and its Advisory Councils have been developing comprehensive planning updates for the sensitive North Coast and Estero coastal areas. Overall, since LCP certification the County has been working on a variety of fronts, along with an informed and active citizenry, to respond to the complex and dynamic challenges of coastal resource protection through local implementation.

But effective local implementation of statewide resource protection goals is also dependent on the Commission continuing to work actively with local governments, in order to help frame local decisions within the broader context of statewide coastal protection. The Commission plays an important role in advising local government, providing information, and assisting with interpreting the goals of the California Coastal Act. The Commission also plays an important role in monitoring local actions. In the case of San Luis Obispo, Commission and County staff regularly discuss local development proposals and alternatives for achieving coastal resource protection. The ability of citizens or the Commission to appeal local decisions to the Commission is also important in assuring that the statewide perspective on coastal resource management remains vital in LCP implementation. The certified LCP is the main standard of review for such appeals, and while people may not always agree on its correct implementation, the Commission monitoring and appeal process allows for maximum public participation in the interpretation and application of the LCP through individual decisions.

For day-to-day LCP implementation to be truly effective, though, it is important to periodically conduct a comprehensive review and evaluation of individual coastal permit decisions and other coastal management activities. Periodic evaluation focuses people's attention on how an LCP is functioning in light of environmental, social, and economic change. It allows for the incorporation of new knowledge into the LCP, and the adjustment of existing policies, programs, and implementation practices, informed by the lessons learned about what works in the coastal management process. In short, the periodic review of LCPs is critical to the success of coastal management in California.

This is why Coastal Act section 30519.5 requires that the Commission periodically review the implementation of certified Local Coastal Programs. Regrettably, few periodic reviews have been completed thus far by the Commission, mostly due to the lack of resources needed to undertake these comprehensive planning evaluations. But increased funding has become available in recent years, and the Commission is committed to a strategy for systematically reviewing LCP implementation based on identified priorities for coastal resource protection in California. In December of 1998, the Commission identified San Luis Obispo County as its top priority for Periodic Review. In making this decision, the Commission recognized the extreme sensitivity and statewide significance of coastal resources in San Luis Obispo, as well as the tremendous growth pressures in this county located mid-way between the metropolitan regions of San Francisco and Los Angeles. In addition, the Land Use Plan of the County's LCP, which contains the core coastal protection policies for San Luis Obispo, was approved by the Commission in 1983, nearly 20 years ago. The County has been issuing coastal development permits for just under 13 years (since final LCP certification in 1988), without a comprehensive evaluation from the Commission.

As summarized below, much has changed since the 1988. Over the last 13 years the County has made great strides in protecting coastal resources. But there are also many areas where the LCP should be strengthened, and where daily implementation can be improved, to respond to changing circumstances and new knowledge about effective coastal resource protection. Under section 30519.5, if the commission determines that a certified local coastal program is not being

carried out in conformance with any policy of the Act, the Commission submits to the local government recommendations for corrective actions that should be taken. These actions can include suggested amendments to the LCP as well as intergovernmental coordination measures or actions by other state and local government agencies to improve implementation of the LCP.

The *Preliminary Report* of the San Luis Obispo Periodic Review is the first step in the development of a set of recommendations to the County as envisioned by section 30519.5. Many of the policy issues raised are complex, and there are variety of concerns and alternative policy options that should be deliberated. Informed public discussion and communication between the County and the Commission over the next several months will be important in developing final recommendations that not only address identified needs for enhanced coastal resource protection, but that are also practical and that will lead to meaningful changes to the County's LCP and its implementation. Overall, by providing this mechanism for evaluation and feedback, Coastal Act 30519.5 assures an ongoing process of keeping the LCP current and effective as a guiding standard for coastal management and decision making at the local level. The periodic review offers the opportunity to enhance coastal management by reviewing whether the LCP is achieving the results it was intended to achieve. It is also an opportunity to evaluate the cumulative impacts of coastal development and revise and update the LCP to address them

Finally, while Commission staff have been working on the Periodic Review, the County has been conducting other significant planning efforts, including ongoing work with the Estero and North Coast Area Plan Updates. Much of the information collected and evaluated for the Periodic Review has emerged out of the extensive and ongoing coordination between the Commission, the County and the local Advisory Councils on these updates. Appendix E of the report contains the most recent staff-to-staff communications on these planning efforts, as well as other significant planning that has been taking place, such as the environmental review for the new Los Osos Wastewater Treatment Plant.

As shown Appendix E, Commission staff has been engaged in a productive dialogue with the County and local Advisory Council on the Estero Plan Update, which has produced substantial comments and responses to guide future policy development. Commission staff has also commented on the new North Coast Area Plan Project Description and the Draft Cambria Design Plan. The NCAP Project Description circulated by the County in fact reflects many of the modifications that the Commission suggested in its 1998 action on the North Coast Area Plan LCP Amendment submitted by the County. Although the modified amendment ultimately was not accepted by the County, significant discussions occurred at the staff level after this action in an effort to maximize opportunities to identify mutually-agreeable updates to the LCP. Commission staff also worked closely with the County for more than six months on the Avila Beach Specific Plan LCP Amendment in order to achieve certification of this important update to the LCP. This update was certified by the Commission in November 2000 and elements of that Plan are reflected in the Review.

Throughout the past year, every effort has been made to integrate these parallel planning efforts with the Periodic Review. Much more detailed analysis and discussion of particular proposed Area Plan changes remains to be done. Still, there is no doubt that the Periodic Review has been

significantly informed by these other planning efforts and, alternatively, that the work of the Review has helped shaped the Commission staff feedback to the County. Over the next several months, Commission staff will be coordinating with the County, local Advisory Councils, community service districts and other members of the public to develop a final set of Periodic Review recommendations for Commission consideration, tentatively set for the Commission's May, 2001 meeting in Santa Cruz.

Continued coordination between the County and the Commission as part of the ongoing updates of the LCP will be critical to the successful implementation of the LCP improvements suggested by the periodic review. But, as noted in the review, many of the issues raised concerning LCP implementation can be addressed simply through improved post certification monitoring and procedures, including enhanced daily coordination and communication. Ultimately, it is the strength of the partnership between the Commission and San Luis Obispo County, and an understanding of the shared goals that the Commission, County, and the public have in coastal resource protection, that will enable the LCP to be updated so as to respond effectively to the dynamic changes of life along the California Coast. An overview of some of these changes in San Luis Obispo County follows.

CHANGES SINCE LCP CERTIFICATION

Periodic Review is essential for keeping LCPs current in light of changed circumstances. It also is important to evaluate changed circumstances because of their integral connection to the effective implementation of the local coastal policies and programs. This is particularly true in the case of natural resource changes, where new information and scientific understanding is constantly evolving. Plans and policies put in place over fifteen years ago could not have anticipated the range and complexity of resource management problems that characterize the coastal environment of today.

In San Luis Obispo County, significant environmental, social, legal, and economic changes have occurred since certification of the County's LCP in 1988. Most fundamental, population growth and development pressures continue to place significant pressure on coastal resources. Population has increased almost 20% since 1988 and is projected to increase 57.8% over the 1988 population by 2020. The County also has issued more than 2,800 coastal development permits under the LCP. Most of these permits were for some type of residential construction. Approximately 2,186 new residential units have been authorized throughout the coastal zone.

Significant changes have also occurred that speak directly to the need for a periodic review of the San Luis Obispo County LCP. These include newly discovered endangered species and environmental threats, acquisition and designation of new protected areas, changes in statewide resource policy, and improved knowledge and public appreciation of coastal resources. Even a short list of these changes underscores the importance of periodically evaluating LCP implementation.

For example, in the case of the North Coast, at least two new species that rely on coastal waters

(red-legged frog and steelhead) have been identified as threatened under the federal *Endangered Species Act* since LCP certification. Protection of the riparian zones and creeks, therefore, is even more vital to adequate protection of coastal habitats. When coupled with the new knowledge about the limited capacities of the creeks, it becomes critical to revisit the applicable coastal policies, and update them to account for this new resource management condition.

Similarly, the emergence of the Elephant seal colony at Piedras Blancas, and the spread of Pitch Canker disease among Monterey pine forest require new analyses and policies for incorporation into the LCP. These are examples where both science and resource conditions have evolved (without predictability) to the point that existing policies no longer anticipate, and are inadequate to address, the new resource circumstances. Following is a summary list of significant changes in San Luis Obispo since LCP certification.

Resource Changes

- The listing of several endangered species, including the steelhead trout, red-legged frog, the western snowy plover, the morro shoulderband snail, and morro manzanita and four other plants endemic to Los Osos.
- The emergence of Pitch Canker Disease as a significant threat to the pine forest in and around Cambria.
- Emergence of significant new breeding colonies of elephant seals at Piedras Blancas in the early 1990s.
- Increasing purchase of remote coastal ranchlands for the development of "Statement Homes".
- Designation of the San Simeon fault as an active fault by the State Geologist.
- Emergence of MTBE pollution as a major groundwater quality concern.
- Increases in tourism and shoreline recreation; increased popularity of recreational boating, hiking, mountain biking and other forms of outdoor coastal recreation.
- Significant flood events in Cambria.
- Greater than a 100% increase in visitor-serving accommodations on the North Coast.
- Increased shoreline erosion.
- Designation of California Coastal Trail from Oregon to Mexico as the National Millennium Trail for the State.
- Designation of Route One as a Scenic Highway.
- Significant impacts from oil and gas contamination in Avila Beach and Guadalupe Dunes.

New Resource Programs

- Designation of the *Monterey Bay National Marine Sanctuary* in 1992.
- Establishment of the *Morro Bay National Estuary Program.*
- Establishment of the *Guadalupe Nipomo Dunes National Wildlife Area.*

Improved Resource Management Knowledge

- New information concerning the limited capacities of the five major water supply creeks and groundwater basin in the North Coast and Estero planning areas
- Improved knowledge about the effectiveness of visual resource protection policies from the Commission's experience in Big Sur
- Enhanced Public Appreciation of rural and coastal landscapes
- Discovery of new archeological sites

Legal Changes

- Significant changes in 5th amendment Takings jurisprudence
- Adoption of a new *California Nonpoint Source Pollution Control Program*

As shown even by this short list, much can change in just over a decade. These changes highlight the importance of having a responsive coastal management system, and of conducting periodic reviews on a regular basis. Thirteen years is far too long a time period to wait in between such evaluations. The longer the time period between comprehensive evaluations, the more likely it is that coastal resources will be lost due to changing circumstances that have not been addressed through comprehensive planning. Also, the longer the time span between comprehensive reviews means that greater staff resources are required to collect and evaluate the accumulated data, in this case of more than a decade of LCP implementation. As summarized in the next section, though, the County and the public have responded to many of the coastal resource protection challenges in San Luis Obispo, leading to many positive changes as well.

COASTAL MANAGEMENT ACHIEVEMENTS IN SAN LUIS OBISPO

The Periodic Review shows that the County, local citizen groups, and others have taken significant steps to respond to changing conditions through LCP implementation and other resource management efforts. Major accomplishments in coastal management since 1988 include:

- **Property and conservation easement acquisitions** have occurred, including at the East-West Ranch, Sur Sur Ranch/Forest Service, Williams/TPL, CT Ranch/TNC sites and the Estero Bluffs, Morro Palisades and Powell Property. Conservation easements also have been negotiated for 5.7 miles of coastline between Montana de Oro and Avila Beach and for the 3,000 acre Guadalupe oilfield and the Guadalupe Nipomo Dunes National Wildlife area was established.

- **County Acceptance of Public Access OTDs.** The County has picked up many outstanding offers to dedicate public access throughout its coastal zone.

- **Agricultural land preserves** under Williamson Act contracts have increased countywide and more than 7,000 new acres of land have come under contracts in the coastal zone.

- **Funding and studies for Erosion Control and Forest Management**, including development of a targeted erosion control program in Lodge Hill of Cambria.

- **Remediation for Avila Beach and Guadalupe Oil Spills** has been undertaken with over $60 million in mitigation implemented.

- **Ongoing coastal planning** has been undertaken. Specific Plans have been developed in Avila Beach, and are being developed for Oceano and the Morros. Substantial LCP enhancements for the North Coast and Estero planning areas are proposed, including a critical viewshed policy for the North Coast, and a comprehensive habitat conservation program for Los Osos; and Design Plans are being developed in Cambria.

- **Public participation** has increased through the establishment and staffing of formal Coastal Community Advisory Councils and the development of materials to facilitate public involvement in coastal planning and management.

- **Substantial funding for coastal resource protection and enhancement projects** has been assured through Coastal Resource Grant Programs and through major project mitigation.

These achievements highlight that effective coastal management relies on more than the coastal development permitting process. Property acquisitions, nonprofit management, funding of research and programs and, perhaps most important, public participation, all contribute to the capacity of the coastal management system to respond effectively to changes along the coast.

Nonetheless, even with these significant accomplishments in furthering coastal resource protection and management in San Luis Obispo, the Periodic Review also identifies major areas where the LCP and its implementation can be strengthened to respond to ongoing and new coastal resource management challenges in the County. Improvements are needed in every resource area protected by the Coastal Act, and these are detailed in the Preliminary Report. A brief summary of the key findings and preliminary recommendations follows.

SUMMARY OF PRELIMINARY REPORT

The following sections are not complete listings of the preliminary recommendations found in the full report. Only major findings and an abbreviated listing of recommendations is provided.

***Intergovernmental Coordination and Procedural Improvements.* LCP implementation and coastal resource protection can be vastly improved in all policy areas through investment in the coastal resource management process, including support for enhanced coordination and teamwork between the Commission and the County planning staffs. Procedural changes that facilitate such coordination, maximize opportunities for public participation, and clarify noticing and appeal procedures, will equally benefit the coastal development review process.**

The Coastal Act envisioned a planning and regulatory program built on public participation and ongoing coordination between coastal management staffs at the local and state level. However, staffing constraints faced by both the County and the Commission has made coordination between the agencies and the interested public more difficult. The review of the County's LCP indicates that in many cases, the standards of the certified LCP are structured in conformance with the Coastal Act. Nevertheless, implementation issues arise when there are differences in policy interpretations, problems in notification, and inadequate or unclear analyses and permit findings. Better coordination early in the permitting process may help reduce appeals from County actions and improve ongoing decision-making. Similarly, clarification of noticing requirements and other implementation procedures, as suggested in Chapter 12, will enhance the efficiency and effectiveness of the development review process as well as maximize opportunities for public participation. Given limited staff resources, the County, Commission and the community should work to identify alternative ways to improve monitoring and exchange of information, and to perfect LCP implementation procedures.

***Environmentally-Sustainable Development*. Improved policies and programs are needed to assure that future urban development, particularly in Cambria and Los Osos, is environmentally-sustainable, and that sensitive coastal stream habitats and groundwater basins are protected. New policies are needed to address the cumulative impacts of development on rural agricultural lands.**

While the County has partially met the Coastal Act goal of concentrating urban development, pressures have driven residential growth beyond the urban-rural boundaries at the northern edge of Cambria and on the urban edge of Los Osos. In addition, new development threatens to permanently alter rural agricultural viewsheds and undermine agricultural viability outside of urban areas. The character of rural lands is being adversely affected by cumulative development patterns on legally-recognized but non-conforming lots, facilitated by lot-line adjustments that create attractive residential home sites.

In addition, urban development is being authorized without adequate public services. The total projected buildout will create deficits over the sustainable yield of available water supplies in San Simeon Acres, Cambria, Cayucos, and Los Osos. While the County has taken some positive steps, such as retiring development potential of close to 300 lots through a TDC program in

Cambria and implementation of retrofit programs, the projected buildout will create substantial deficits in available capacity of services. Immediate short-run strategies are needed in Cambria to avert damage to groundwater basins and sensitive habitats. Serious longrun strategies are needed to address the problem of too many small lots in Cambria.

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

Urban Areas

- Strengthen the implementation Resource Management System (RMS) to assure more proactive resource management in urban areas with inadequate public services.
- Implement measures to control short-term growth and long-term buildout reduction in Cambria. Implement an aggressive policy to protect the groundwater basins supplying Cambria. Prohibit new subdivisions in Cambria and Los Osos that create new development potential.
- Expand the TDC program to allow more sending sites, limit the amount of TDC any one receiving site can use, and address cumulative impacts of TDCs on receiving areas.
- In the Estero Area, implement measures to control short-term growth and long-term buildout reduction in Los Osos. Consider policies to assure that new development relying on groundwater is not approved until a safe yield or alternative water source is determined.
- Improve County-Commission coordination and findings on projects outside Urban Services Lines (USL) and clarify the controlling authority of the LCP with respect to whether new development is appropriate outside USL.
- Evaluate potential for reduction of development intensities on the perimeter of urban areas.
- Consider programs and policies to establish or support greenbelt and open space areas on the urban fringe of developed areas, e.g. Los Osos.
- Encourage urban redevelopment inside the USL prior to authorizing development outside of USL boundaries.
- Develop strategies to address future development that may be facilitated by the construction of a new wastewater treatment plant in Los Osos.

Rural Areas (see also, Agriculture below)

- Minimize expansion of development nodes in the rural North Coast by rezoning viable grazing lands currently zoned for recreation back to Agriculture. Limit new visitor serving development to existing commercial nodes at San Simeon Village and San Simeon Acres.
- Apply resource protection policies more strictly to lot-line adjustments in rural lands and amend current lot line adjustment review criteria. Evaluate options for new lot-line

adjustment policies to protection agricultural land, and methods for processing non-conforming parcels.

- Update the LCP to address large residential developments in rural areas, including assuring viewshed protection, addressing water impacts, and limiting the impacts of non-agriculturally related residential development on agricultural lands and operations.
- Establish a watershed/basin management program and additional requirements for minimizing water use.
- Expand the RMS to require resource capacity studies in rural lands.

Enhanced Water Quality Protection. Updated policies and programs are needed to assure implementation of Best Management Practices in new development, address urban and agricultural nonpoint source runoff, and enhance coastal watershed protection.

Coastal water quality impacts are a growing concern in California. Nonpoint source pollution is increasingly recognized as the most important pollution problem to address to achieve clean coastal waters. Significant work has been done in California, at the federal level and nationwide in improving our techniques for managing nonpoint source pollution. In January, 2000, the Commission adopted the *Plan for California's Nonpoint Source Pollution Control Program.*

In San Luis Obispo County, erosion and sedimentation from grazing and other agricultural practices, and runoff containing residues of pesticides and other chemicals are identified as a contributing factor to water quality problems. The LCP currently exempts many agricultural activities from permit review and thus from measures to ensure adequate implementation of best management practices. LCP implementation has also resulted in some development on steep slopes, particularly in urban areas such as Cambria and Cayucos, which increases the potential for erosion and runoff.

The LCP also does not contain current policies and ordinances to achieve the goals of the Commission's nonpoint source pollution control program, including strengthened performance standards, the use of current best management practices to minimize erosion and sedimentation, and adequate monitoring to assure the effectiveness of measures required. Comprehensive urban runoff programs should be implemented as well. Finally, the LCP needs to be updated to reflect new information on management measures to address discharge from boats and pollutants generated from boat maintenance activities.

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

- Expand the LCP Watershed Chapter to include a comprehensive Water Quality Component. Incorporate the management measures of the *Plan for California's Nonpoint Source Pollution Control Program* into the LCP with amendments to the policies and ordinances, and through implementation of a variety of non-regulatory and educational programs.

- Develop watershed plans for each water basin and/or planning area to address cumulative nonpoint source pollution.
- Modify existing policies to protect sensitive areas from grazing impacts and to address pollution from nutrients, pesticides, and irrigation. Modify the grading and permit exemptions to minimize water quality impacts from agricultural uses.
- Change existing LCP policies and ordinances to reflect current knowledge (e.g., minor changes to the definition of the wet season).
- Incorporate tools into the planning process to address water quality concerns for development that does not require an erosion control plan under the LCP.
- Modify the existing drainage policy to improve the management of post-construction runoff by requiring that projects incorporate the most up-to-date BMPs, including a requirement to size post-construction BMPs to accommodate the runoff from the 85th percentile storm runoff.
- Incorporate performance standards and monitoring requirements into erosion control plans.
- Develop programs to address ongoing operations of harbors and boating facilities, including education programs incorporating best management practices for waste disposal and maintenance activities, and fuel spills.

Maintaining Agricultural Lands. Improved policies and standards are needed to address non-agricultural land uses in rural areas and on nonconforming agricultural parcels, and to improve viability analyses of agricultural lands.

Keeping viable agricultural lands zoned for agriculture is critical under the Coastal Act. The County has sought to redesignate approximately 305 acres of agricultural lands through a number of LCP amendment submittals, about half of which were found by the Commission to be consistent with the Coastal Act and the LCP. An important step in avoiding inappropriate conversions is assessing the viability of continued agricultural use. The County has, in some cases, proposed converting agricultural lands without adequate findings as to the ongoing feasibility of agricultural uses.

Long-term protection of agricultural lands is impacted by other factors as well, including subdivisions and lot-line adjustments, legalization of lots through certificates of compliance, development on nonconforming agricultural parcels, and approval of non-agricultural development in rural agricultural areas. Overall, the County has not significantly increased the number of non-conforming lots as a result of new subdivisions, and has in several cases brought a non-conforming lot into compliance with the minimum parcel sizes under the LCP in order to further protect of agricultural lands. Additional nonconforming lots have been recognized, though, through the certificate of compliance process established by the Subdivision Map Act. These lots then become candidates for lot-line adjustments to facilitate residential development not associated with a bonafide agricultural use. The cumulative effect of future additional subdivisions, lot-line adjustments, and certificates of compliance could significantly change land

use patterns, decrease overall parcel sizes, and may decrease the overall long-term viability of agricultural lands, inconsistent with the Coastal Act. In approving the supplemental and non-agricultural uses on agricultural lands, though, the County has not fully implemented sufficient measures to determine that the land is not viable for on-going agricultural activities. Expanding allowable supplemental uses on agricultural lands without more thorough analysis of effects on agricultural viability may not adequately protect agricultural lands as required by the Coastal Act.

Finally, intensification of agricultural land uses is an emerging trend and results in increased impacts to coastal resources through such things as habitat loss, landform alteration and increased water use. Potential vineyard development is a particular concern. The LCP's current program and standards may not be sufficient to address these concerns, especially given the limited exemptions from permit review for grading and other agricultural operations. As discussed previously, water quality protection may also be at risk from intensified agricultural land uses.

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

- Develop a new LCP policy and ordinance to strengthen review of lot-line adjustments for conformance with the resource protection policies of the LCP.
- Evaluate policy alternatives to prohibit lot-line adjustments from increasing the number of developable parcels.
- Establish criteria regarding lot-line adjustments on existing non-conforming lots in agricultural lands so that lot-line adjustments are approved only if they maintain or enhance agricultural viability.
- Explore adopting a merger ordinance for non-conforming Agricultural parcels, as provided in the Subdivision Map Act.
- Pursue policies and programs to address the issuance of Certificates of Compliance and Conditional Certificates of Compliance.
- Require any other proposed development that would convert agricultural land to other non-agricultural uses to conduct an agricultural viability analysis.
- Update the existing LCP ordinance that outlines the required components of viability reports to ensure that agricultural viability is adequately assessed.
- Further restrict the non-agricultural uses allowed on agricultural lands.
- Develop LCP standards for large residential developments on Agricultural Land.
- Evaluate Table O for revisions to address non-agricultural uses and to clarify conditional uses on agricultural land. For example, consider defining residences that are not developed in direct support of bonafide agricultural operation to be a conditional, supplemental use.

Require agricultural protection easements on the parcel in conjunction with residential development.

- Modify agricultural exemptions to require coastal development permits for changes in the intensity of use of agricultural lands that result in grading and landform alteration, alteration of drainage and runoff or increased sedimentation, impacts to environmentally sensitive habitat area, or grading within 100 feet of a stream or waterbody.
- Enhance LCP standards to improve protection of coastal resources by: (1) limiting new or expanded crop production to slopes of less than 30%; (2) incorporating erosion control measures; (3) incorporating cover crops into vineyards and hedgerows, which increase the habitat and reduce erosion potential; (4) maintaining oak trees and protecting ESHA, and planting vines away from oaks; (5) reducing the use of fumigants, pesticides, and fertilizers; and (6) assuring wildlife travel corridors through limitations on fencing or other mechanisms. These revisions may be authorized under a combination of general planning law and the Coastal Act.
- Strengthen implementation of existing LCP water management requirements.
- Develop LCP policies and standards to address potential conversion of rural grazing landscapes to intensive crop production that would impact scenic vistas, alter watersheds, and adversely impact habitat values.

***Preservation of Scenic Rural Character*. LCP changes are needed to better preserve the special character of the County's rural agricultural lands, including further concentrating future development at appropriate locations, protecting sensitive viewsheds through a critical viewshed policy, and establishing a protective visual resource overlay. Support should also be increased for special communities.**

The County has made significant efforts to implement a number of programs intended to restore visually degraded areas where feasible, and/or to add to the overall attractiveness of special communities. These include the Oceano Urban Area Program, the Avila Specific Plan, the Cambria Forest Management Plan, various Design plans in Special Communities, and the Overhead Utility Undergrounding Project. In addition, a number of properties with significant scenic resources have been purchased for public use or are under a conservation easement.

However, in many other cases, important public viewsheds have been degraded since certification of the LCP and will continue to suffer the cumulative impacts of new development under the current practices of development approval. Inadequate regulatory control over siting and design of new development, over-dependence on vegetative screening to mitigate substantial visual impacts, lack of enforcement of permit conditions, missed opportunities to eliminate non-conforming uses, and a development in critical viewsheds are all contributing to an erosion of irreplaceable visual resources. Impacts of cellular towers and fiber optic cables are an emerging trend that needs to be addressed. In the Harmony Coast area and in Cambria, the cumulative

impacts resulting from the buildout of existing lots could significantly affect the visual resources and community character.

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

- Enact a Critical Viewshed Protection Policy.
- Create a Scenic SRA combining designation separate from the existing general SRA, which includes scenic resources as one element.
- Strengthen the County's enforcement program and condition compliance monitoring.
- Create a funding mechanism for an open space district to purchase scenic properties and retire development rights.
- Pursue National Scenic Byway Designation for Highway One in the Estero and North Coast Planning Areas.
- Strengthen Public Viewshed Protection Policy language to clarify that scenic viewsheds need to be protected from all public viewing areas, including state coastal waters.
- Restore the small scale neighborhood SRA designations to Cayucos.
- Monitor and evaluate the current TDC program and its effect on receiving sites.
- Support continued undergrounding of overhead utilities. Highway 1 through the Hearst Ranch should be identified as a priority area for undergrounding of utilities.
- Evaluate designation of Harmony as a Special Community of Historic Importance.

Sensitive Coastal Habitat Protection. Policy implementation refinements and new and updated LCP standards are needed to assure adequate identification and protection of sensitive habitats.

As previously described, there are numerous changed circumstances related to the type, extent, and status of Environmentally Sensitive Habitat Areas (ESHA) present throughout the San Luis Obispo coastal zone. Revisions and updates to the LCP, and improved procedures for LCP implementation, are needed to respond to this new information, as well as to address the following additional issues identified by the Review:

- Incomplete maps of sensitive habitats have been relied upon to identify and protect ESHA;
- Project alternatives that avoid impacts to ESHA have not been adequately pursued;
- Mitigation requirements have not effectively offset impacts to ESHA;
- "Takings" concerns have unnecessarily compromised effective ESHA protection; and,

- The absence of comprehensive habitat protection and management plans for the Los Osos and Cambria areas has interfered with the effective protection of sensitive Monterey pine forest, coastal scrub, and maritime chaparral ecosystems.

Preliminary Alternatives:

The report identifies a range of alternatives to respond to these issues, including the following:

- Revise the LCP definition of ESHA so it conforms to the Coastal Act and is not limited to areas mapped by the LCP. Similarly, revise the definition of streams so that is not limited to streams mapped by the U.S. Geological Survey.
- Supplement the use of LCP ESHA maps with site specific evaluations and other available information to determine the presence of ESHA. Use the site-specific biological delineations generated during project reviews to routinely update LCP ESHA maps.
- Update the Area Plans to include species that fit the definition of ESHA from a local or regional level (e.g., Monarch butterfly over-wintering sites, Elephant seal haul-out areas).
- Continue efforts to develop a Habitat Conservation Plan for the Los Osos area and to incorporate this plan into the Estero Area Plan Update.
- Pursue development of a comprehensive forest management and protection plan for the pine forest in and around Cambria, potentially as part of the North Coast Update. This plan should, among other things: emphasize the importance of avoiding the removal of pines, particularly those that display a resistance to pitch canker; provide a framework for guiding off-site tree replacement; update the TDC program; establish protocols for handling diseased wood; and prescribe mitigation that facilitates the acquisition of the most sensitive forest habitats as a means to offset the cumulative impacts of buildout on forest resources.
- Expand requirements for biological reports to ensure that all information necessary to address habitat impacts, and identify less damaging alternatives, is available during project review. Coordinate the update of these requirements, as well as the review of biological reports, with the Department of Fish and Game and the U.S. Fish and Wildlife Service, among other applicable regulatory agencies and interested parties.
- Revise Table O to clarify that resource dependent uses are the only allowed uses within an ESHA or setback, and to acknowledge the restrictions on development in or adjacent to ESHA.
- Stringently enforce the LCP's prohibition of subdivisions that create new building sites in ESHA, and revise LCP provisions regarding clustered subdivisions so that all land divisions are effectively set back from, and protective of, ESHA.
- Update SRA standards to require that *all* development concentrate proposed uses in least sensitive portions of properties (not just development that triggers development plan review).

- Require all parcels that are geographically contiguous, and under common ownership, to be addressed by an overall development plan where development of any one of these parcels may pose impacts to ESHA.
- Analyze economic backed expectations where ESHA impacts cannot be avoided and where non-resource dependent development may need to be accommodated in order to prevent a taking. Restrict such development to the minimum necessary to avoid a taking of private property while maximizing consistency with the LCP.
- Establish maximum disturbance envelopes for new development in sensitive areas.
- Specify minimum mitigation requirements for unavoidable impacts, including monitoring and maintenance provisions adequate to ensure mitigation effectiveness or corrective action.
- Improve implementation of ESHA setback standards, evaluate effectiveness of current setback standards, and require 100 foot setbacks wherever possible (including in urban areas).
- Limit the use of variances so they do not result in adverse impacts to ESHA.
- Modify existing policies and ordinances to further restrict and avoid streambed alterations and to minimize their adverse impacts.

***Public Access:* Through acceptance of offers to dedicate public access and new acquisitions, the County has made major gains in providing new public access since certification. However, there are still areas where access is not available, areas where existing access may be threatened and areas where easements are sited in a way that may not maximize access. In addition, since certification of the LCP, new priorities for completing the California Coastal Trail have emerged. Modifications to the LCP to develop an updated comprehensive Access Component could address many of the concerns raised in the review.**

The County has accepted numerous outstanding Offers to Dedicate Public Access (OTDs), mostly for lateral access along the shoreline. Since certification, the County has required additional access mitigation - 60 lateral shoreline easements, five vertical shoreline easements and five trail easements - primarily in Cambria, Cayucos, and Los Osos. However, these required easements represent only about 37% of the cases where the County has authorized development along the shoreline. In some cases the County actions requiring access OTDs appear to conflict with the intent of the LCP policies by including limitations in the condition language that do not assure that the access will be provided. In some cases, access requirements site easements in a way that will not assure maximum public access.

A related concern is assuring the adequate distribution of pedestrian access throughout the County. There are many stretches of coastline in the County lacking adequate vertical access; the two longest areas are each approximately 15 miles long. An important component of assuring this distribution of access is completing the segments of the California Coastal Trail. To date, only approximately 37% of the trail in San Luis Obispo County is complete.

The LCP also needs to strengthen protection of existing public access, for example by tightening provisions that would prevent future loss of access through quiet title actions and better addressing potential prescriptive rights. Finally, the potential conflict between providing access and protecting sensitive resources will continue to grow. Since 1988, the snowy plover, which nests on sandy beaches, was listed as a threatened species. A new colony of elephant seals also became established at Piedras Blancas. Both these species are found in shoreline areas with public access. While the County has generally been successful in balancing the provision of public access with the protection of sensitive resources in its regulatory program, there is increasing potential for future conflict.

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

- Continue efforts to complete an updated Comprehensive Access Component to include: a complete inventory of existing and potential access, including an analysis to document informal use and potential prescriptive rights; strategies for increasing public acquisition of areas; identification of areas where lateral access should be expanded to include blufftop access; and management of passive recreation in sensitive rural areas.
- Update the LCP to improve the siting of access dedications, including the use of blufftop trails.
- Continue efforts to accept any remaining outstanding OTDs and amend the LCP to allow for direct dedication of public access easements to the County.
- Develop a mechanism to address future quiet title actions and ensure the protection of public access opportunities.
- Analyze the long-term supply and demand for low-cost visitor serving recreation, and evaluate the need to further provide for such uses through LCP amendments.
- Continue to work with other resource agencies to develop strategies to manage sensitive habitats in recreation areas. Policies should assure that where the Coastal Trail is on a beach that is seasonally occupied by sensitive species, a supplementary blufftop trail is provided. Include public access management and enhancement as a component of all habitat management planning and conservation plans.

***Coastal Hazards:* Implementation of the LCP has resulted in more armoring of the shoreline as a response to coastal hazards, mostly in Cayucos and Cambria. The LCP needs to improve measures to avoid and minimize additional armoring, and to ensure that future construction and maintenance of shoreline protection devices reduce and mitigate adverse impacts to the greatest degree feasible.**

Changes to LCP Hazards provisions and implementing procedures are needed to respond to the new information available regarding shoreline erosion hazards and the impacts that shoreline protection devices pose on coastal resources. Additional changes are needed to address the

following issues that have been identified from a review of the approximately 56 permits for new or expanded shoreline armoring (mostly in Cayucos and Cambria) authorized by the Commission and the County since LCP certification: (1) implementation of existing setback policies has been insufficient to prevent additional shoreline armoring due to inadequate estimates of erosion rates; (2) accessory structures have been allowed in the setback areas; (3) approval of variances to setback standards in areas of high erosion hazard; and (4) an unrealistic estimated economic life of 75 years.

The LCP also does not adequately address resiting of development at risk from erosion, particularly older structures that are likely to be redeveloped. Since many of the existing shorefront structures are older structures, reconstruction or redevelopment is likely to occur. Without standards to site redevelopment as far landward as possible, additional armoring will be likely.

Other problems with LCP implementation include: lateral access OTDs required to mitigate the impact of shoreline protective devices on coastal access have, in some cases, been recorded on public lands and have also not been accompanied by conditions that ensure easements remain free of future encroachments (e.g., expansion of shoreline protective devices); emergency armoring along Pacific Coast Highway has been constructed with minimal engineering, inadequate consideration of alternatives, without mitigation of impacts on coastal resources, and inconsistent permit follow-up; geologic evaluations have not provided the data necessary to conduct an adequate review of site stability and project alternatives; and in some areas, existing LCP policies are inadequate to fully address seismic hazards and flooding concerns.

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

- Modify policies to define "existing coastal development" as only the principle structure, and specify that armoring is not allowed for the sole purpose of protecting accessory structures. Strengthen setback policies to base required setbacks on a 100-year rather than a 75-year economic life of a structure. Re-examine the regional average erosion rates to estimate a minimum setback distance that better reflects current shoreline changes.
- Develop standards to prohibit new subdivisions, lot splits, or lot legalizations that create new lots in high wave hazard areas.
- Strengthen standards for new development on vacant lots subject to hazards, or for demolition and rebuilding of structures, to require that the applicant assumes the risk of building without assurances that future armoring will be allowed.
- Implement an area-wide shoreline erosion and bluff retreat management plan for Cayucos and Cambria. Identify specific types of armoring acceptable for specific areas, include procedures for evaluating alternatives. Also incorporate procedures to address emergency armoring, with provisions for coordinating for field inspection, guidance on types of

temporary structures preferred, and requirements that emergency armoring be removed if a follow-up permit is not granted.

- Clarify policies that Highway 1 must comply with setback standards to be safe from erosion for 100 years, and pursue alternatives to armoring including relocation of the Highway where feasible and appropriate.
- Modify ordinances to require mapping of all public access easements and recorded OTDs.
- Update and expand requirements for geologic evaluation reports within the GSA combining designation.
- Update seismic mapping and expand the GSA designation to include new faults identified since certification. Require complete geologic investigation of these areas prior to approving new development.
- Expand the flood hazard designation.
- Develop and implement a flood analysis and management plan for West Village in Cambria.
- Prohibit the removal of vegetation on public lands to protect private development from fire hazards unless the impacts of such removal are appropriately mitigated.
- Resite existing structures outside of hazardous areas when proposed for redevelopment.
- Require reductions in building footprints where necessary to avoid erosion hazards.
- Develop mitigation programs to pay for beach nourishment where shoreline protection devices may adversely affect beach sand supplies.
- Pursue acquisition of areas subject to high hazards.

Archaeological Resource Protection: ***San Luis Obispo County has a rich archaeological heritage. Since certification of the LCP in 1988, the number of registered archeological sites registered in San Luis Obispo County has increased from 1,000 to 2,055 sites, the majority of which fall within the coastal zone. This increase is due to more expansive real estate disclosure laws and CEQA requirements. The principal sources of destruction of archaeological resources are from urbanization and uncontrolled public access. Two factors must be addressed to adequately protect archaeological resources: adequate identification of resources and avoidance or adequate mitigation of impacts to known resources, including onsite monitoring in areas of known resources. Overall, with few exceptions, the County has protected archaeological resources in conformance with LCP and Coastal Act requirements.***

- Update Archeological Resources Overlay Maps to reflect a more accurate location of archaeologically sensitive areas. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps.

- Pursue options to strengthen protection of archaeological resources including evaluating requirements for geoarchaeology surveys.

Energy and Industrial Development: ***New issues since certification of the LCP include a significant increase in proposed fiber optic cables, wireless communication facilities[1], and the closure, or pending closure, of several energy facilities. The LCP should be updated to address these emerging issues.***

Preliminary Alternatives:
The report identifies a range of alternatives, including the following:

- Update LCP designations and policies to identify and establish cable corridors and consolidated landing sites.
- Expand LCP ordinances to require that fiber optic cable projects are installed with suitable mitigation measures such as drilling monitoring, erosion control, revegetation, public access mitigation and other measures necessary to protect all scenic resources and habitat values.
- Update LCP policies to address the abandonment and decommission of energy facilities and power plants. Incorporate more specific standards to address abandonment procedures, site remediation, and rezoning.

NEXT STEPS

The Periodic Review Preliminary Report is being submitted for consideration by the Commission, the County and the public. The Commission hearing in February 2001 will initiate a public review and comment period. During this public comment period the Commission staff will work with the County, local Advisory Councils, and the public to refine the policy options that might best respond to the identified LCP program needs. This step will also allow for more specific public evaluation and integration of the program changes already developed by the County in the Estero and North Coast Area Plan Updates. Following the public review period, the Commission staff will submit a Final Report and recommendations to the Commission for action, tentatively scheduled for May 2001 at the Commission's public meeting in Santa Cruz.

[1] Recommendations regarding wireless communications facilities are addressed in the staff report on SLO LCP Amendment No. 2-99, also scheduled for hearing at the February 2001 Commission meeting.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

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PRELIMINARY REPORT

PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM

CALIFORNIA COASTAL COMMISSION
FEBRUARY 2, 2001

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PRELIMINARY REPORT
PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM
FEBRUARY 2, 2001

Executive Director	Peter Douglas
Deputy Director	Tami Grove
Project Staff:	Allyson Hitt, Leslie Mendez, Steve Monowitz, Tania Pollak
Contributors:	Kristin Brown, Marina Cazorla, Sarah Christie, Ross Clark Lisa Nunes
Cartography and Graphics:	Allyson Hitt, Doug Macmillan, Tania Pollak
Project Managers:	Elizabeth Fuchs, Charles Lester

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CHAPTER 1: INTRODUCTION

STAFF RECOMMENDATION: The Staff recommends that the Commission **open and continue** the public hearing for the Periodic Review of the San Luis Obispo Local Coastal Program for a minimum 30 day comment period.

INTRODUCTION TO THE REVIEW

Purpose and Authority

This is the preliminary report for the first Periodic Review of Local Coastal Program (LCP) implementation by San Luis Obispo County. Section 30519.5 of the Coastal Act requires the Commission to conduct a periodic review of a government's local coastal program at least once every five years. The basic purpose of the review is to determine whether the LCP is being effectively implemented in conformity with policies of the Coastal Act. Section 30519.5 states:

> *(a) The commission shall, from time to time, but at least once every five years after certification, review every certified local coastal program to determine whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that a certified local coastal program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the affected local government's local coastal program.*
>
> *(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.*

In addition, under provisions of Section 30501 of the Coastal Act, the Commission may recommend specific uses of more than local importance for consideration by any local government for inclusion in its local coastal program. Thus, the Coastal Act requires that the Commission assure that the ongoing implementation of a certified Local Coastal Program is effectively meeting the statewide policy goals of the Coastal Act.

Benefits of Conducting a Periodic Review

Although there is an explicit statutory basis for a periodic review, such a review is also a natural step in the ongoing partnership between the Coastal Commission and local governments in coastal resource management. This partnership does not end with the certification of an LCP.

Rather, the challenging task of implementing, monitoring, enforcing and updating a coastal program only begins at that point. A periodic review of an LCP provides a valuable opportunity to enhance the coastal management program at the local level in a number of ways. It enables the Commission, in cooperation with the local government, local residents and others, to assess the community's progress in carrying out its coastal plan. It also provides a chance to update relevant coastal resource information, especially concerning cumulative effects and emerging issues that perhaps were not fully known or appreciated when the LCP was originally prepared. Finally, it provides a means to work with the local government to identify changes that may make the LCP work better, consistent with the requirements of the Coastal Act.

A periodic review reflects experience gained in the implementation of the LCP through planning and regulation at the local level. But it also can reflect the outcome of other implementation actions such as acquisition and operation of beach accessways, restoration of wetlands, execution of habitat conservation or resource management plans, and conduct of educational programs, all of which bring to reality the programs and recommendations of the LCP. Program enhancements recommended through a periodic review can include suggested amendments to plan designations, policies or zoning standards or procedures, but may also include intergovernmental coordination measures or actions by other state or local agencies to improve implementation of the certified LCP.

Monitoring, reviewing and updating a certified LCP is a critical component of effective coastal management. When the Commission reviews the implementation or zoning component of an LCP the standard of review is consistency with the certified land use plan. When the Commission reviews a project on appeal, the standard of review is consistency with the certified LCP and Coastal Act access policies. It is therefore very important that certified LCPs are continually reviewed and updated in order for the LCP to continue to function as an effective standard for sound coastal resource management decision-making.

Local Coastal Program History

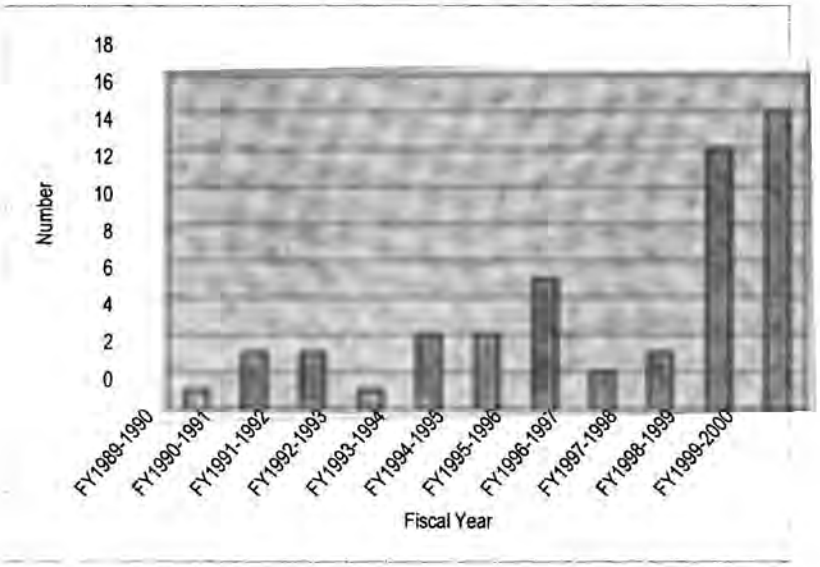
San Luis Obispo County received an initial LCP grant to begin the background studies for LCP planning in February 1978. The County's Land Use Plan (LUP) was submitted to the Commission in early 1982 and approved with suggested modifications. After additional planning, the LUP portion of the LCP was certified on April 12, 1984. A categorical exclusion for single-family homes was approved on January 9, 1985. The Local Implementation Program (Land Use Ordinance) was certified as submitted on October 7, 1986 and the total LCP was certified on July 8, 1987. The County did not immediately assume permit-issuing authority and submitted an amendment package (LCP No. 1-87 (Major)) to "clean up" the Land Use Ordinance. The Commission on February 25, 1988 certified this amendment. The County assumed permit-issuing authority on March 31, 1988. Since certification, the Commission has approved 26 major and minor amendments to the County's LCP. Five other amendments were reviewed by the Commission but did not result in additional certifications. At least one amendment proposed a comprehensive update of the North Coast Area Plan, which the Commission approved with the modifications in January 1998. The County did not fully agree with the Commission's modifications but instead is currently in the process of producing a new North Coast Area Plan Update. The County is also in the midst of an update of the Estero Area Plan. In December 1998, the Commission identified the County as one of the 5

highest priorities for periodic LCP review and a year later the Commission voted to undertake a periodic review.

Post-Certification Appeals

The number of appeals to the Commission of coastal permits approved by the County has steadily increased since certification, as shown in Figure 1-1.

Figure 1-1: SLO Appeals Filed through November 2000



San Luis Obispo County leads all coastal jurisdictions in the number of post-certification appeals. However, of the eight jurisdictions with the most appeals as shown in Figure 1-2 and Table 1-1, the Commission determined that the appeals raised a Substantial Issue (SI) with regard to conformance with policies of the certified LCP and the access policies of the Coastal Act in only 35% of the appeals in SLO. This is a lower percentage of Substantial Issue determinations than in the other jurisdictions with the highest overall appeals.[1]

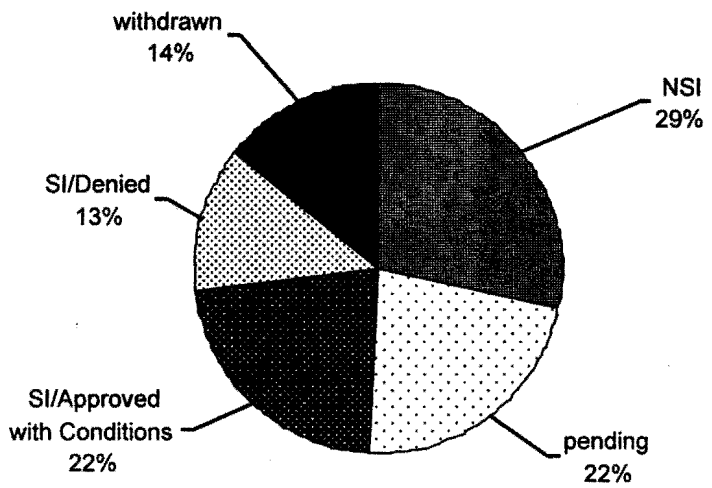
Table 1.1: Appeals Filed and SI Determinations in top 8 jurisdictions through November 2000

Jurisdiction	Number of Appeals	Number found SI	Percentage found SI
San Luis Obispo County	63	22	35%
San Mateo County	43	16	37%
Monterey County	43	9	21%
Santa Barbara County	41	10	24%
Santa Cruz County	36	17	47%
City of San Diego	35	14	40%

[1] About 24 % of these SLO appeals filed are currently pending. The CCC has found substantial issue on 2 of these and final action is pending. The others are pending SI determination.

Jurisdiction	Number of Appeals	Number found SI	Percentage found SI
Mendocino County	29	15	52%
Pismo Beach	26	14	54%

Figure 1-2: CCC Actions on SLO Appeals through November 2000



In reviewing the appeals where Substantial Issue was found, some issues were raised more often than others. Of the appeals determined to raise a substantial issue, public access and availability of services to support development were the issues raised most often.

Table 1-2: Frequency of Issues Raised in SLO Appeals where SI Found

Issues Raised in SI Appeals	Number of Appeals	% of 22 SI Appeals
Access	9	41%
Sewage / Water Capacity	9	41%
Scenic and Visual / Landform Alteration	7	32%
ESHA - Other	7	32%
Agriculture	6	27%
Concentration / Location / Intensity of Development	6	27%
Recreation / Visitor Serving	5	23%
ESHA - Wetlands	5	23%
Water Quality/ Polluted Runoff	4	18%
Hazards	3	14%
Shoreline and Streambank Structures / Alteration / Processes	3	14%
Archaeological / Paleontological	2	9%
Other	2	9%
Special Communities	1	5%
Traffic / Transit / Road Capacity	1	5%
Parking	1	5%

Public Participation

Following the Commission's December 1999 decision to review the SLO LCP, the Commission staff held initial start-up meetings with County staff. On February 1, 2000 initial public workshops were held in cooperation with County staff. The purpose of the workshops was to discuss the LCP review process with the public and to solicit comments on any planning, development, access, or resource protection issues that may have arisen since certification of the City's Local Coastal Program. Results of these initial workshops were summarized for the Commission in March, 2000. In addition, Commission staff met with County staff and members of the community on various issues of concern related to key development projects or LCP Area Plan Updates during the review process. Commission staff workload and time constraints precluded more extensive coordination with the county staff as initially envisioned. Therefore, this Preliminary Staff Report and Recommendation is intended to initiate a more extensive public comment period. A final report and recommendations will be submitted to the Commission for action following the completion of the public comment period and staff's final analysis.

Organization of the LCP

In reviewing this report it is helpful to understand how the San Luis Obispo County LCP is structured. The programs, policies, ordinances, and standards of the San Luis Obispo County LCP intended to carry out Coastal Act policies can be found in the Framework Document, the Coastal Plan Policies document, LCP Ordinances (including the Coastal Zone Land Use Ordinance (CZLUO) and other related ordinances), and four Area Plans. These Area Plans are: North County, Estero, San Luis Bay and South County. (See Map 1-A).

In general, the Framework Document contains goals and Table "O", which defines allowable land uses in each Land Use category. The Coastal Plan Policies Document provides general coastal protection policies that are implemented by more specific zoning ordinances. The Planning Area Standards, contained in each of the four Area Plans, contain the most specific standards, as they have been designed to address the particular characteristics of distinct geographic areas of the county.

The LCP also includes "Official Maps", reduced versions of which can be found in each of the area plans. These include Zoning designations, including "Combining Designation" maps that delineate where special combining designation standards, such ESHA protection policies, apply.

The various LCP provisions are divided into 2 different categories:

- **Programs** are non-mandatory actions that may be initiated by the county or other identified public agency to achieve specific community or areawide objectives. County implementation of programs is based on consideration of community needs and support for the program and its related cost. Notwithstanding their advisory nature, the LCP Programs provide important recommendations regarding coastal management.

- **Standards** are mandatory requirements for development planning and construction. They are found in the Coastal Plan Policies Document, the various ordinances that are a part of the LCP (particularly the Coastal Zone Land Use Ordinance), and the four Area Plans.

The LCP establishes the following hierarchy for the application of LCP standards:

- **Policies Implemented by Ordinance.** Most LCP policies are implemented by a corresponding ordinance referenced at the conclusion of the policy. Because the ordinances are typically more specific that the policies they are intended to implement, the LCP provides that ordinances supersede policies in the event of a conflict.

- **Ordinances.** Ordinances apply Land Use Element policies to land development. In addition to implementing policies, the LCP ordinances also establish important procedures for the review of projects as well as procedures for adjusting, waiving, and granting variances to these ordinances. In addition, ordinances are superseded by LCP "Standards" (see below) if there is a conflict between an ordinance and standard.

- **Policies that are Standards.** Where a Coastal Plan Policy or portion thereof, is not implemented by a specified ordinance and is not a Program, it is considered to be a standard. Policies that are standards represent mandatory requirements for new development that can only be superseded by standards contained in the four Area Plans (see below).

- **Planning Area Standards.** The Planning Area Standards contained in each of the four Area Plans were developed to address the particular circumstances and unique resources of the specific urban and rural planning areas. Therefore, they are at the top of the LCP's regulatory hierarchy, and represent mandatory requirements for new development that supersede all other policies and ordinances in the event of conflict.

A Note on Some of the Data Used in the Report

The primary data for reviewing the implementation of a Local Coastal Program are the permits acted on since certification. This includes both permits authorized by the local government and by the Commission on appeal from a local decision. A variety of new and revised environmental studies and other information regarding protection and management of coastal resources are also considered.

In this SLO LCP review, the Commission staff relied on two main sources of data for reviewing permit actions: the county's records of permit actions and the database developed by the Commission staff of all post-certification Final Local Action Notices (FLANs) which the county is required to file with the Commission pursuant to the LCP implementation regulations. The Commission staff collected data for actions from the 1988 date of certification through 1998, and also a few key cases from 1999 and 2000.[2] But both of these sources had limitations that made it difficult to compare the permit information and to compile a complete and consistent dataset of post-certification actions. In general, unless the county data is specifically noted, the Commission's database is the primary information relied on in the evaluation.

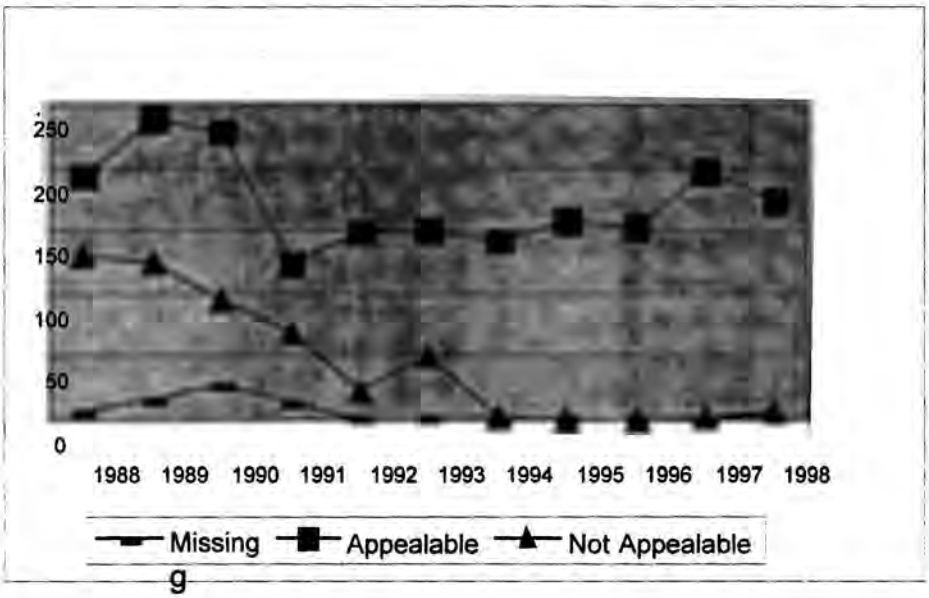
[2] As FLANs were continually submitted, development of a database was a moving target. Entering data into the database is also an extensive time commitment, for which the Commission has no permanent, dedicated staffing resources. In order to begin project analysis, it was necessary to define limits to data entry. Since database development started in 1999, it was decided to have a complete data set through the end of 1998 and supplement it with identified cases from 1999 and 2000.

The limitations of each database vary. Both sources tracked data somewhat differently. For example, both contain a field for project description but the county data "Description" field is very general. It identifies projects using only terms such as "development project", "subdivisions project', "ag exempt building", "fast track ag" or "front counter projects". Therefore the county data was not as useful in understanding the number or location of different *types* of development authorized. The Commission database contained both a full project description as well as a field categorizing "development type". Also, neither database tracks whether the development actually was built, although the county database does track that a permit was issued. And, the county's database contains duplicate entries for the same project and makes entries for actions that may not necessarily be a coastal development permit. For example, there are entries for "Hazard tree determination"; "land use violations", "zone clearances", and "Area Plan Updates.

However, while the Commission database contained more specificity, it contains only the actions for which Final Local Actions Notices were submitted by the County and therefore does not represent a total picture of development authorized. For example, it does not includes exemptions or development excluded from permits. In addition, in the time following certification, the County initially noticed the Commission on *all* permit actions – both appealable and non-appealable, but early in the 1990s, the county began to submit FLANs for only *appealable* development.[3] As noted in Figure 1-3, there is some error inherent in the numbers presented in the review. It appears that from 1988 through 1993 the ratio of non-appealable protects to total projects varies from about 40% to around 13%. After 1993 there are, on average, 27% fewer reported items. Thus it appears that in this LCP review the coastal permit data evaluated using the Commission's database is an estimate only and likely represents an *underreporting* of actual permits issued. The number is likely to be closer to 2700 instead of the 2480 reported.

[3] The LCP Implementation regulations section 13568 requires notice of nonappealable projects only when the project requires a public hearing under the local ordinances and the project is not categorically exempt.

Figure 1.3: Appeal Status of Reported CDPs, 1998-1998



As the Commission staff found in previous projects, an LCP evaluation is more difficult because of the lack of good, consistent monitoring data[4]. Because of these limitations, in reporting actions where both databases were consulted, the staff may, in some cases, present the data as a range. And, the Commission staff did not rely solely on either database, but focused evaluation in most cases on general assessments of trends, major case examples and other information gathered in order to document the overall effects of LCP implementation. This review reinforces the need to improve coordinated and consistent monitoring; the Commission will continue to work with the county to address these issues.

REGIONAL OVERVIEW

San Luis Obispo County is a rural county along California's scenic Central Coast, with roughly 100 miles of shoreline and a wealth of significant natural resources and agricultural lands. Urban development is concentrated in the communities of San Simeon Acres, Cambria, Cayucos, South Bay-Los Osos, Avila Beach and Oceano. The unincorporated county area abuts the incorporated cities of Morro Bay, Pismo Beach and Grover Beach, all of which have certified LCPs. (Map 1-A: General Regional Location Map). Coastal transportation access is provided by the north-south routes of Highway 1 and 101 and the east-west routes of Highways 46 and 41. The County is divided into four areas for LCP purposes: The North Coast, Estero Bay, San Luis Bay and South County. Each of four planning areas in the county is distinguishable by their own unique character and resources.

[4] CCC, *Regional Cumulative Assessment Project Pilot Project, Findings and Recommendations, Monterey Bay Region*, September 1995, pgs.147-157.

The North Coast Area extends from the Monterey/San Luis Obispo County line on the north to Point Estero on the south. It is a rural, pristine landscape, and forms a natural extension of the Big Sur coastline. The forested Santa Lucia Mountains form the backdrop and numerous perennial streams flow across narrow, grassy marine terraces. The shoreline is predominately rocky with prominent headlands at Ragged Point, Point Sierra Nevada, and Piedras Blancas. Highway 1 parallels the shoreline and runs through the large rural grazing landholdings of the Hearst Ranch, south to the gradually broadening coastal terrace and small communities at San Simeon Acres and Cambria. Small-scale tourist facilities are located along Highway 1, along with the Hearst Castle, a State Park and a major visitor destination.

In the Estero Bay Area, Morro Bay is at the midpoint of the County coast, and its watershed and estuary is a significant natural resource. South of Morro Bay, Montana De Oro State Park provides access to a largely undisturbed landscape, rare geologic formations, and remote canyons. The coast south of the headland of Point Buchon is virtually inaccessible as far as the northern rim of San Luis Bay, except for limited trail access at the Pecho Coast trail near the Diablo Canyon Nuclear Power Plant. At Morro Bay Highway 1 turns inland, skirting the northern flanks of the seven volcanic peaks, referred to as the "Seven Sisters," that forms a chain southeast to the city of San Luis Obispo. From the city of San Luis Obispo, Highway 101 joins Highway 1, which turns west again and reaches the coast at San Luis Bay. The San Luis Bay Area extends from Montana de Oro on the north to the Nipomo Mesa on the south and includes the "Five Cities" urban areas of Pismo Beach, Grover Beach, Arroyo Grande, Oceano and Halcyon, the urban area of Avila Beach, Port San Luis and rural agricultural lands.

The South County Area extends from the edge of the incorporated cities of Pismo Beach and Grover Beach on the north to the Santa Maria River on the south. In this area the coast broadens into a wide plain edged with sandy beaches, extensive dune systems and rural agricultural lands. This area contains the Nipomo/Guadalupe Dunes and the Ocean Dunes State Vehicular Recreation Area.

CHAPTER 2: NEW DEVELOPMENT AND PUBLIC SERVICES

A. Policy Framework

The California Coastal Act includes several policies that address the location, type, and intensity of new development to ensure the protection of coastal resources. To protect rural lands, agriculture and open space, as well as limit urban sprawl, the Coastal Act requires the establishment of stable urban-rural boundaries. New development also must be located within, contiguous to or in close proximity to existing developed areas with adequate public works facilities such as water supply and wastewater treatment. Where such areas are not available, any approved development must be located where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. This includes protection of groundwater basins and sensitive habitats that may be affected by water withdrawals, wastewater disposal, and polluted runoff.

The Coastal Act also includes a specific policy that limits rural land divisions. Another policy provides that and new or expanded public works facilities must be sized to serve planned development and not induce additional, unplanned development. Highway 1, however, must remain a two lane scenic road in rural areas. Where resources or services are limited, coastal dependent land uses, essential public services, basic industries, public and commercial recreation and visitor-serving land uses shall not be precluded by other development. Collectively, these requirements reflect a fundamental goal of the Coastal Act: protection of coastal resources by concentrating new development in existing developed areas able to accommodate it.

The San Luis Obispo LCP contains various policies to implement this Coastal Act goal. Most fundamental, the Land Use Element (LUE) establishes urban-rural boundaries to prevent sprawl and leapfrog development, and to allow for orderly development within urban areas. In general, land within delineated urban areas is zoned for urban densities while land outside these areas is zoned for rural densities or agricultural uses. New development beyond established urban services lines should not be served by public water or sewer services, and must have adequate on-site water and waste disposal systems. Applications for new development within urban areas, including land subdivisions, must demonstrate that adequate service capacities (water, sewage, roads) are available to serve the proposed development, taking into account the already outstanding commitment to existing lots within the designated urban services areas for which services will be needed.

The SLO County LCP also includes a Resource Management System (RMS) to implement these policies. The RMS provides a mechanism for the County to consider whether necessary resources and services exist for new development, particularly the creation of new development potential through the subdivision of urban areas. The RMS also provides a framework for evaluating the need for new or expanded public works facilities which, under the LCP, must be designed to accommodate, but not exceed, the needs generated by projected development within designated urban areas.

B. Background

Population and Development Trends

By U.S.Census standards, the County of San Luis Obispo is primarily rural with one urbanized area -- the City of San Luis Obispo.[1] The County, though, has seven incorporated cities, three of which fall within or partially within the coastal zone: Grover Beach, Morro Bay and Pismo Beach. The County also has several well-established unincorporated communities. Those located within or partly within the coastal zone are San Simeon Acres, Cambria, Cayucos, Los Osos, Avila Beach, and Oceano. Together with the incorporated cities, these communities constitute urban nodes along the San Luis Obispo coastline.

San Luis Obispo County has experienced significant growth since final certification of the LCP in 1988. According to figures developed by the Department of Finance (DOF), the county had a population of 204,448 at the time of LCP certification. By 2000 the population had grown to 245,025, an increase of almost 20 percent. The DOF expects the County's population to increase 49.3% over the 1988 baseline population by 2015 and 57.8% by 2020. According the San Luis Obispo Council of Governments (SLOCOG), several emerging population centers are projected within the County over the next twenty years. Population growth is shifting from the central County to the north and south of the County. The fastest growing region comprises the north county communities of Paso Robles, Atascadero, and Templeton (not in the Coastal Zone). This region will likely not meet the urbanized area definition within the next twenty years. In the south County, though, the area comprising the communities of Arroyo Grande, Grover Beach, Oceano, and Pismo Beach, known as the "Five Cities" area, is projected to meet the "urbanized area" classification by the 2000 census.[2] In contrast to the expected growth in the North, this growing area is in or immediately adjacent to the coastal zone.

In and around the coastal zone, most of the population is located in the more urban nodes of Cambria, Cayucos, Morro Bay-Los Osos, and Pismo Beach-Oceano (see Map 1-A). There are smaller development nodes at San Simeon Acres and Avila Beach. As shown in Table 2-1, with few exceptions, each of these areas has experienced significant population increases since LCP certification in 1988. The urban area around Morro Bay – the City of Morro Bay and unincorporated Los Osos -- have grown at slower paces, due to serious water supply and wastewater treatment capacity constraints respectively. Avila Beach also has not grown and may have even reduced its population over the last decade. In recent years Avila has been disrupted by the cleanup of the Unocal spill and subsequent redevelopment of the community.

Although smaller in magnitudes than the urban nodes, the population in the rural areas of the SLO coastal zone also has grown considerably, particularly along the rural North Coast where, according to County Planning Department estimates, population has nearly doubled in the last

[1] According to the Census Bureau, "...An Urbanized Area comprises one or more places—central place—and the adjacent densely settled surrounding territory—urban fringe that together have a minimum of 50,000 persons. The urban fringe generally consists of contiguous territory having a density of at least 1,000 persons per square mile ..."
[2] The "five cities" are Pismo Beach, Grover Beach, Oceano, Arroyo Grande, and the former unincorporated community of Shell Beach, which was annexed into the City of Pismo Beach.

decade. The rural portions of the South County and San Luis Bay Planning areas have also seen significant population growth. While much of this growth has been located outside of the coastal zone, particularly on the Nipomo Mesa, this growth nonetheless exerts pressures on coastal resources, including groundwater supplies, recreational resources, and water quality. This projected population increase, both in and outside of the coastal zone, will continue to place significant pressures on coastal resources along the San Luis coast, particularly on the relatively undeveloped rural and agricultural lands, as well as limited remaining native habitats.

Table 2-1. Population Change in Coastal Urban Areas*

Urban Area/Node	1990	Current	% Increase
San Simeon Acres[a]	206	248	20%
Cambria[a]	5382	6242	16%
Cayucos[b]	2,960	3,350	13%
Morro Bay-Los Osos[b]	24,041	24,621	2%
Avila Beach[c]	442	395	-11%
Pismo Beach-Oceano-Arroyo Grande	38,197	43,942	15%
Rural Areas Total	12,695	15,470	20%
North Coast[a]	348	669	92%
Estero[b]	872	970	11%
SLB/South[d]	11,187	13,206	18%
TOTALS	**83,635**	**93,643**	**12%**

*Figures for incorporated cities as reported by the state Department of Finance.
[a] North Coast Area Plan Update Project Description, San Luis Obispo County, January 2000.
[b] Estero Area Plan Update, Public Review Draft, February, 1999
[c] San Luis Bay Plan, Avila Beach Specific Plan.
[d] Includes population outside of coastal zone in Rural San Luis Bay and South County Planning Areas.

Mirroring this population growth, the U.S. Census Bureau reports that 13,859 building permits for new private residential units were authorized for all of San Luis Obispo County from 1988 through 1998. In the vicinity of the coastal zone, the County Planning Department reports that 3932 residential units were constructed between 1988 and 1998 in the unincorporated County and the Cities of Morro Bay, Pismo Beach, and Grover Beach.[3] As shown in Table 2-2, over half of these units (2186) were constructed in the unincorporated areas of San Luis Obispo County and therefore under the jurisdiction of the SLO LCP. Of the total number of new residential buildings authorized, approximately 85% were in the urbanized areas or isolated urban nodes along the San Luis Obispo coast. More detail on coastal zone development trends is presented in the next section.

To address the County's growth rate, the County Board of Supervisors adopted a Growth Management Ordinance in 1990 (Title 26, 26.01.010). Although not certified as part of the County's LCP, this Ordinance established a maximum annual growth rate for new dwelling units (2.3%) and a system for allocating the number of residential construction permits consistent with the ability of community resources to support the growth. As discussed in more detail below, the

[3] Completed permits are for all communities that fall within or partly within the coastal zone. The number of completed permits only within the coastal zone, although unavailable, would be less since the most of Oceano, half of South County fall outside the coastal zone.

allocation of new units must be based on the availability of resources such as water and wastewater disposal needed to support the new development. New development in some communities, such as San Simeon Acres and Los Osos, has been under severe constraints due to the lack of essential public services such as sewer and water (see below for detail).

Table 2-2. Residential Building Permits, 1988-1998

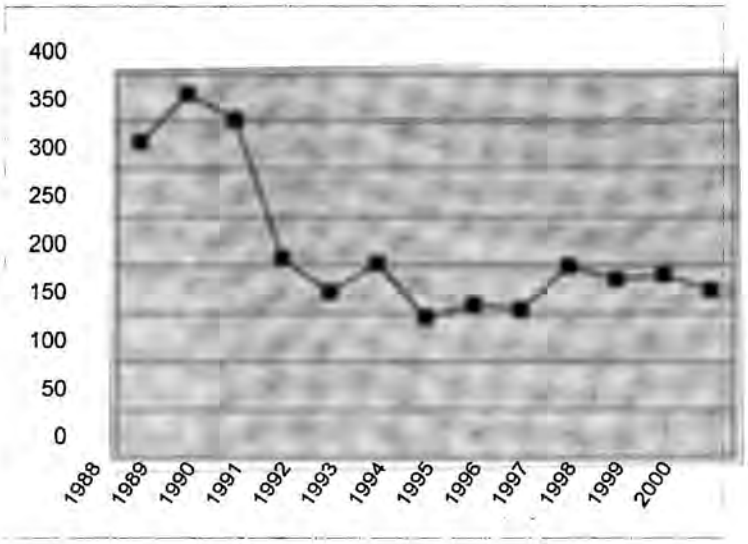
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Total
North Coast (Rural)	6	2	0	7	2	0	2	2	5	3	3	**32**
San Simeon	20	0	0	0	0	0	0	0	0	0	0	**20**
Cambria	117	83	40	19	28	26	62	53	57	83	64	**632**
Cayucos	15	4	7	-1	1	3	16	14	27	28	13	**127**
Los Osos	101	34	26	18	12	8	9	9	7	5	19	**248**
Estero (Rural)	12	5	2	-5	7	7	4	3	0	4	4	**43**
Avila Beach/Valley*	67	25	5	0	2	4	23	15	3	13	0	**157**
Oceano*	55	34	11	55	11	9	27	25	5	12	20	**264**
San Luis Bay (Rural)*	15	18	11	9	9	8	4	5	12	14	17	**122**
South County (Rural)*	75	34	52	72	25	33	40	49	46	52	63	**541**
Unincorporated Total	**483**	**239**	**154**	**174**	**97**	**98**	**187**	**175**	**162**	**214**	**203**	**2186**
Morro Bay	28	28	66	66	19	32	11	34	47	36	32	399
Pismo Beach	128	29	83	60	39	15	43	71	69	20	78	635
Grover Beach	144	139	66	65	35	13	27	12	62	65	84	712
Coastal Zone Total	**783**	**435**	**369**	**365**	**190**	**158**	**268**	**292**	**340**	**335**	**397**	**3932**

*Includes permits for areas outside of the coastal zone.

Coastal Development Permitting Overview, 1988-1998

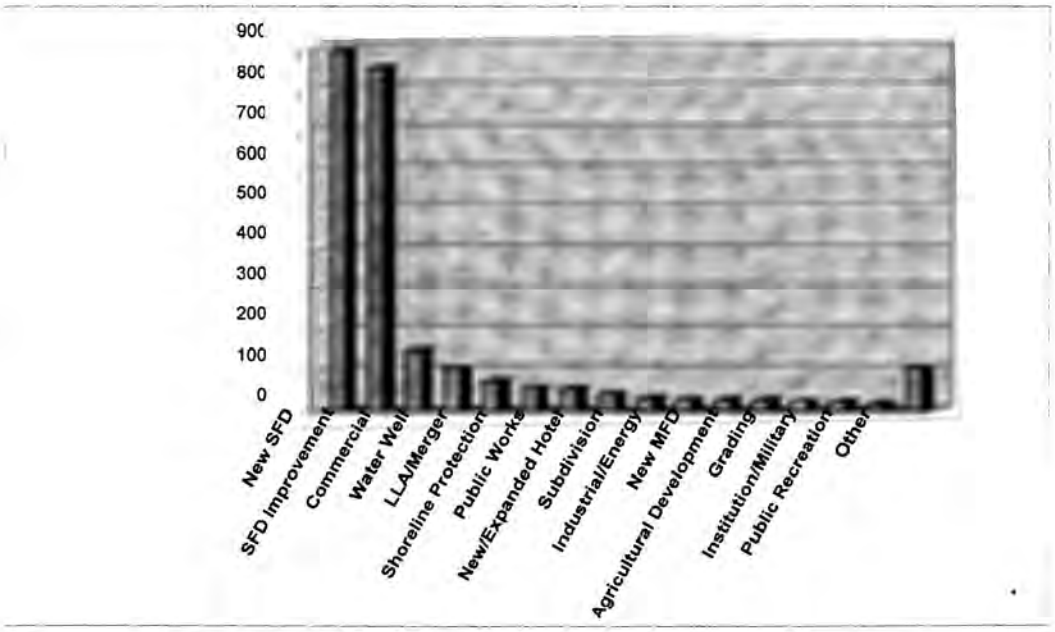
Since certification of the San Luis Obispo County LCP in 1988, approximately 2481 coastal development permits were reported to the Commission through 1998. Through the year 2000, 2845 local coastal permit actions have been reported. As shown in Figure 2-1, total reported CDPs per year generally declined from 1988 to the mid-1990s, and have been gradually increasing since then. This trend may generally reflect the strength of the economy and overall development activity during this time period. However, as discussed in Chapter 1, it appears that not all coastal development permits issued by the County, particularly more minor development projects, have been reported to the Commission.

Figure 2-1. Reported CDPs, 1988-2000



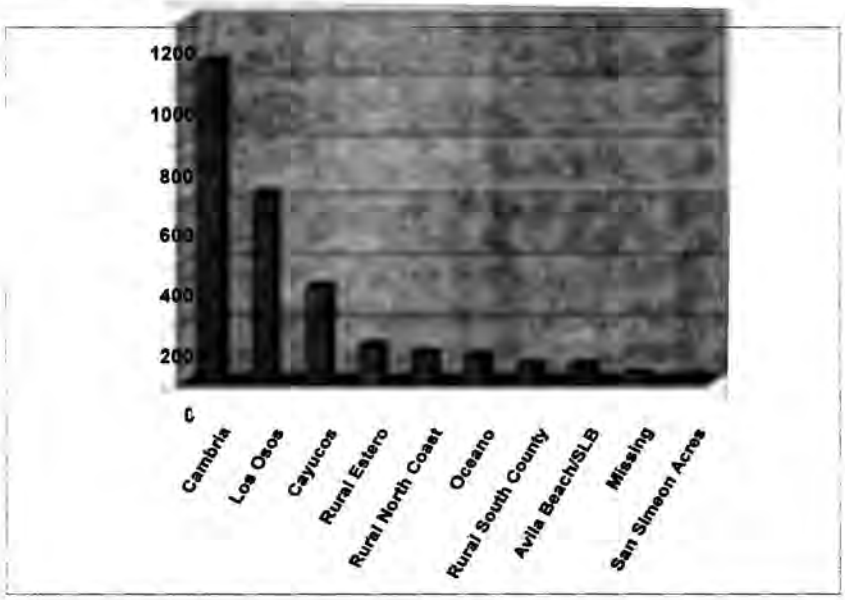
Most of the reported coastal development permits approved by the County (70%) have been for some type of residential construction. As shown in Figure 2-2, about 36% of the CDPs were for new single family home development, and another 34% were for improvements to existing single family homes, such as a room addition, remodel, or accessory structure construction. Although not a substantial percentage of the total reported CDPs, significant numbers of coastal permits were issued for other types of development that typically raise important coastal resource issues. This includes 56 permits for new shoreline structure development, 32 residential subdivisions, and 42 permits for new or expanded visitor-serving hotels or motels.

Figure 2-2. Primary CDP Development Types, 1988-98



The distribution of reported permit activity by geographic area shows that most of the residential permit activity has occurred in Cambria, with the urban areas of Cayucos and Los Osos accounting for most of the remainder. Commercial development also follows this general pattern although relatively more commercial activity is seen in Los Osos than in Cambria. Permit data also shows significant water well development in the rural agricultural areas of the North Coast and Estero. Other types of reported development follow predictable patterns. For example, of the 56 reported CDPs for shoreline structures, nearly 9 out of 10 were located in Cambria or Cayucos, where urbanization in SLO County is most at risk from shoreline erosion. Most of the reported energy or industrial-related permit activity took place in the South County. More detailed discussion of these permits and the issues raised is presented in other chapters of this report. Overall, since LCP certification most new development in SLO County has been urban infill, with more limited development in the rural areas.

Figure 2-3. Reported CDPs Geographic Distribution, 1988-1998



C. Preliminary LCP Implementation Issues

This chapter focuses on three primary issues related to new development and the Coastal Act: (1) concentrating urban development and maintaining stable urban-rural boundaries; (2) preventing the cumulative impacts of development to rural and agricultural lands; and (3) assuring availability of public services for new development, particularly coastal dependent and related uses. While the three issues have much in common, they also raise distinct challenges for the County of San Luis Obispo and the Coastal Commission.

C.1. Concentration of Urban Development: Stable Urban-Rural Boundaries

Overview: Coastal Act §30250(a) requires that new development be concentrated in and around existing developed areas that have sufficient public services to support such development. Where such areas are not available, development must be located where adequate public services exist, and where the development will not have significant adverse effects, either individually or cumulatively, on coastal resources.[4] As discussed below, SLO County has been generally successful in maintaining the certified urban-rural boundaries of the existing urban nodes in the coastal zone. In addition, there is diminished potential for future expansion of urban development and services into adjacent rural areas, due to recent conservation acquisitions and easements on the rural perimeter of urban areas.

At the same time, though, some development has been approved that has led to the extension of urban services across the Urban-Rural boundaries of Cambria and Los Osos. In order to prevent further erosion of existing urban-rural boundaries into the future, the LCP policies addressing concentration of development must be the primary and controlling authority for new development approvals. In certain areas it also may be advisable to decrease allowable densities or relocate the urban services line, through the Area Plan Update process, to better match available resources and clarify appropriate location and intensities of future development. The County should also consider amending the LCP to reincorporate the section 30250 requirement to limit subdivision potential outside of urban-rural boundaries.

LCP Implementation: As summarized earlier, the San Luis Obispo County LCP has a variety of policies and mechanisms designed to achieve conformance with Coastal Act §30250. To establish a framework for locating new development, the County's LCP designates urban service, urban reserve, and village reserve lines. The urban service line (USL) is most important for meeting the Coastal Act goal of concentrating development in existing urban areas. In general, this line encompasses those areas where public urban services such as water and sewer may be provided in the nearterm, and thus where new urban development is appropriately located. The urban reserve line (URL) represents the ultimate projected limits for urban community growth, and is based on such factors as population projections, planned service capacities, and the need for additional growth within individual communities.[5]
LCP Public Works Policy 1 is central to the implementation of the USL/URL system. This policy requires that priority be given to new development that would infill existing subdivided

[4] There are only limited exceptions to this general requirement: hazardous industrial development may be located away from developed areas (Section 30250(b)); coastal-dependent industry may be permitted outside developed areas if other locations are infeasible or environmentally damaging, and the effects of such development are mitigated (Section 30260); and visitor-serving facilities may be located outside of urbanized areas, but only if urban locations are infeasible for such development and the facilities are located in existing isolated development nodes or at select points of attraction for visitors (30250(c)).
[5] In order to distinguish rural communities that are not "urban" per se from the surrounding rural countryside, the LCP also establishes village reserve lines (VRL) around such communities as San Simeon Acres. The LCP contains a land use plan for each village, with particular attention given to their unique problems, opportunities and development potentials.

areas, and that development outside of the USL only be allowed where private water and waste disposal can be provided:

> *New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.*

In conjunction with the land use and zoning designations of the LCP, this policy establishes a framework whereby proposals for new development at higher densities are directed to existing urban areas. Thus, land use designations outside of the various URLs in the coastal zone are mostly limited to the Rural Lands or Agricultural category, neither of which allow development at densities greater than 1 unit per 20 acres generally. Properties lying between the URL and the USL are generally zoned for a lower density than lands within the USL.

LCP Policy 1 also works in conjunction with Agriculture Policy 5, which defines the urban service line as the "urban-rural boundary" for Coastal Act purposes. Most important, this policy prohibits land divisions or development that would require the extension of public services beyond the USL, providing further incentive to concentrate development. In so doing, the policy also seeks to minimize conflicts between urban and agricultural land uses.[6] Finally, the SLO LCP has a variety of corresponding zoning ordinances that provide more specificity for the implementation of these policies. These ordinances are discussed in more detail later in this chapter.[7]

Development Trends

When the Commission certified the San Luis Obispo County Land Use Plan in April of 1984, it established USL and Urban Reserve Lines for the coastal zone meant to identify appropriate locations for new urban development and environmentally-sustainable limits for future growth. The Commission set USL/URLs in locations already committed to existing urban levels of development, plus a logical expansion area for future urban development in areas capable of accommodating additional growth for approximately 20 years. Since this certification, essential services such as water and sewer have become more limited in much of the planning area. Thus, the question of whether the original urban limit lines remain appropriate in light of existing resource constraints is addressed later in this Chapter. This section, though, addresses the question of whether LCP implementation has achieved the goal of concentrating new development within these certified limit lines.

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[6] Public Works Policy 4 reaffirms that any changes to the USL must be approved by the Coastal Commission through an amendment to the LCP.
[7] See Ordinances 23.04.021, 23.04.430, and 23.04.430.

As summarized earlier, the County has issued at least 2482 coastal development permits for the years 1988-1998. Of these, most were for new development in Cambria, Los Osos and Cayucos.

New Residential Development. About 70% of the San Luis Obispo County CDPs were for new residential development or residential-related improvements. Based on reported CDPs, the County approved approximately 945 CDPs for 1213 new residential units in the coastal zone between 1988 and 1998 (975 SFDs; 238 multi-family units). Although there may be some error associated with this number due to underreporting, the single family dwelling count is generally consistent with County permit data showing that approximately 1053 building permits for single family homes were issued for this same time period (see Table 2-3).

Table 2-3. Reported Residential CDPs, 1988-98

	SFD CDP	%	SFD Units	% Units	*County Building Permits*
Cambria	581	66%	602	62%	*604*
Los Osos	93	11%	155	16%	*150*
Cayucos	92	10%	97	10%	*211*
Rural Estero	34	4%	34	3%	*16*
Oceano	30	3%	32	3%	*37*
Rural North Coast	24	3%	27	3%	*21*
Avila	15	2%	16	2%	*4*
South County	6	1%	6	1%	*6*
Missing/other	6	1%	6	1%	*4*
TOTALS	**881**	100%	**975**	100%	***1053***

Residential Lot Creation. The creation of new developable lots is also important for evaluating the goal of concentrating development. Reported final local actions on CDPs indicate that the County approved 32 permits for residential subdivisions, excluding condominium conversions, between 1988 and 1998. These permits created 446 additional lots out of 23 existing lots.[8] Similar to the new residential development approved, these lots were mostly distributed in and around the communities of Cambria and Los Osos. However, as discussed later in more detail, many of these lots were created outside of the Urban Service Lines of Cambria and Los Osos, even while being provided with urban services, contrary to the LCP policies to concentrate new development.

[8] Three permits were subsequently denied by the Coastal Commission on appeal, two of which are still in litigation or pending as of this writing (see A-3-SLO-96-113, A-3-SLO-98-087).

Table 2-4. Residential Lots Added to the Coastal Zone, 1988-1998

	Approved
Los Osos	319
Cambria	63
Avila Beach	48
Oceano	12
SLB/South County	2
Estero	1
Cayucos	1
TOTALS	**446**

Lot Mergers. From 1988-1998, reported CDP data shows that the County also approved 43 permits that included lot mergers within the coastal zone. These permits removed a total of 111 lots from the coastal zone. Most of this lot reduction occurred in Cambria, which has many small lots not suitable for development (see findings below for more detail).

Table 2-5. Lot Mergers in the SLO Coastal Zone, 1988-1998

	Permits	Existing Lots	Remaining Lots	
Cambria	30	138	55	**83**
Cayucos	7	25	16	**9**
Estero	1	6	5	**1**
Los Osos	3	26	12	**14**
North Coast	1	4	3	**1**
Oceano	1	5	2	**3**
Total	**43**	**204**	**93**	**111**

Lot-line adjustments and Certificates of Compliance. Lot-line adjustments and the certification of previously unrecognized lots can also create new development potential, both within and outside urban areas. Between 1988 and 1998, the County reported 60 coastal development permits with lot-line adjustments. Nearly a third of these were in Cambria and more than half were in urban areas overall. As shown in the Table 2-6, approximately one quarter of the adjustments approved were in rural areas.

Table 2-6. Lot-Line Adjustments, 1988-98

Place	
Cambria	18
Los Osos	9
North Coast	9
Cayucos	8
Avila Beach	7
Estero	3
San Simeon	2
Calendar Garrett Village Area	1
San Luis Bay	1
Oceano	1
Harmony	1
TOTAL	**60**

The County has also processed a number of certificates of compliance for previously unrecognized lots. A Certificate of Compliance (COC) is a certificate from the County Planning Department stating that a particular piece of real property complies with the County Subdivision Code and the State Subdivision Map Act and is a lawfully created parcel. The Certificate is recorded with the County Recorder and serves as an official record on the legal status of the property. A COC is needed for circumstances where the legality of a parcel must be determined, such as for financing or securing various types of development permits.[9] Because of the significance of certificates of compliance in facilitating new development on rural lands, this issue is discussed in more detail in the Agriculture chapter.

Analysis: The Coastal Act requires that new development be concentrated in existing developed areas and that it be environmentally-sustainable, both in terms of available infrastructure such as water supply, and in terms of potential impacts to environmental resources. The third section of this chapter discusses concerns that have been identified related to whether new development in the SLO coastal zone has been environmentally-sustainable, particularly for the communities of Cambria and Los Osos.

In terms of the *location* of new development, though, San Luis Obispo County's implementation of its LCP has generally met the Coastal Act objective of concentrating development, inasmuch as most development approved between 1988 and 1998 has been located within or adjacent to existing developed areas. Over 90% of new single family homes approved in the coastal zone have been located in or around the urban core areas of Cambria, Los Osos, Cayucos, and Oceano. Likewise, 88% of the reported CDPs for commercial development were located in these communities and the town of Avila Beach. Thus, broadly speaking, the existing LCP Public Works Policy 1 requirement to give priority to urban infill, and the USL/URL boundary system, appears to have successfully guided most new development to already developed areas. To the

[9] The term "legal parcel" relates to how the parcel was created and not to title or ownership status. In addition, all parcels deemed legal by the County are not necessarily developable and permits may not be approved for reasons other than parcel legality.

extent that this significant amount of development has been concentrated within urbanized areas, the distinction between urban and rural areas of the coastal zone has been maintained, consistent with Coastal Act section 30250.

Maintaining a stable urban-rural boundary, though, requires careful attention to those development pressures and trends that so often drive the incremental spread of development into the rural and agricultural lands that surround urban areas. It is important, therefore, to examine development pressures on the edges of the signficant urban nodes in San Luis Obispo, as well as the development patterns of the 10-12% of development that has not occurred within the urban areas. The pattern of development in the rural areas is examined separately under Issue 2 of this chapter and in the Agriculture chapter. The remainder of this section summarizes development pressures and LCP implementation on the urban edges of Cambria and Los Osos.

North Cambria Rural Lands

Since at least the early 1970s development pressures have been driving residential growth beyond the urban-rural boundary at the northern edge of Cambria. There are approximately 1800 acres of land currently designated as "Rural Lands" in this area. These lands encompass a number of separate ownerships, including the Cambria Coast Ranch, part of which is zoned Agricultural Lands (see MAP 2-B).

Although the general SLO LCP density requirements for Rural Lands range from 320 to 20 acre minimums, depending on various land use planning criteria, the North Coast Area Plan has a specific overriding standard for the Rural Lands north of Cambria that establishes a minimum density of one dwelling unit per 80 acres of land. This standard also requires clustering and the provision of onsite sewer and water, unless the site is specifically brought within the USL through an LCP amendment (see NCAP p. 8-18). In 1998, the Coastal Commission adopted findings suggesting that this standard be modified to a minimum zoning of 160 acres per unit for these rural lands, primarily because of the sensitive Monterey Pine habitat in this area (see Chapter 4-ESHA for detail).

Despite the existing standards in the LCP, including the requirement of 80 acres/residential lot, clustering of building sites, and the Rural Lands designation, new residential development has crept northward on the rural Cambria lands outside of the urban services line. The most significant inroad into this area was the 1997 final approval of a subdivision of a 380 acre parcel into 18 large residential lots in 1997 (Leimert, Tract 1804, 3-SLO-97-130). The Leimert subdivision, which is not built out yet, raised a variety of coastal resource protection issues, including impacts to sensitive Monterey Pine forest and Monarch Butterfly habitat and visual impacts from new home and road development. The most significant aspect of this project, though, perhaps was its role in weakening the urban/rural boundary on the northern edge of Cambria. As the following discussion shows, it also illustrates the difficulties of implementing the LCP in a complex legal and administrative environment, where policies may conflict or be less than clear in actual application to a case.

On the surface the Leimert subdivision appears to be in direct conflict with the LCP density requirements and policies to not extend urban services across the USL. A brief review of the administrative record for this project, though, illustrates that even apparently clear LCP policies and standards can be difficult to implement. This particular case has a long history, including legal challenges, Commission review and comment, and conflicting interpretations of the LCP by the County and the Commission.

For example, early in the process in 1990 the developer of the project challenged the County's determination that the appropriate density standard for this areas was the 80 acre minimum (4-SLO-90-104). The administrative record for this action is incomplete, and it is not clear to what extent the Coastal Commission was involved in review of this decision. There was no appeal to the Commission. In addition to this challenge, though, the developer also engaged the County in litigation that eventually settled with the filing of the proposed subdivision by the County with a density of 20 acre minimums.

The Leimert case was further complicated by a pre-existing agreement between the developer and the Cambria CSD to serve the property with urban services. Indeed, in 1995 Commission staff agreed that an LCP amendment was not necessary to move the USL out beyond the project because this pre-existing CSD agreement to serve the property "predated the LCP." Perhaps because the early determination of the density standard by the County went unchallenged by the Commission, the developer was able to propose 18 total lots rather than the four that would have been available under the specific Area Plan standard of 80 acre minimums. Such decisions, of course, have implications beyond the specific case, inasmuch as they may be looked to by other property owners as precedents for appropriate residential density on adjacent lands.

Urban-rural boundaries are perhaps best maintained through clear distinctions between urban and rural development densities, although the pattern of rural development that is allowed outside such boundaries is also important to mediating negative effects. This is the purpose of the LCP's clustering requirements for development north of Cambria. The Leimert subdivision, though, also cannot fairly be determined to be a "cluster subdivision" as required by the LCP. Although the project does not result in a significant number of houses relative to the overall residential development trends in Cambria, this subdivision is significant in terms of the Coastal Act requirement to concentrate development. By allowing a large lot residential subdivision (essentially unclustered, spreading northward, and with urban services), development incentives were potentially generated for adjacent lands. For example, a new access road from Highway One north of Cambria to serve the project may not have been required – a road which now provides enhanced access to other properties north of Cambria.[10] The EIR for the project did determine that a clustered subdivision of one-acre lots adjacent to the urban-rural boundary was feasible but that this alternative would "differ considerably from the stated intent of the project." The EIR also concluded that the no project alternative was environmentally superior and that the small lot cluster alternative reduced biological impacts more than any other alternative.

[10] The access road was approved as part of a previous adjacent subdivision, although it is not clear whether the road would have been necessary if the Tract 1804 project had not been approved in its configuration.

In addition to the Leimert subdivision, other projects have gone forward in varying degrees on the Rural lands north of Cambria. In recent years a large residential compound has been approved just north of Leimert, followed by a proposal to adjust existing lots in this ownership that would result in a non-conforming parcel. This proposal has recently been denied by the Commission on appeal from the County's approval (Brown, A-3-SLO-00-045). Although this project is now in litigation, a primary basis for the Commission's denial was the inconsistency of the proposed lot densities with the 80 acre density standard in the North Coast Area Plan. This project also involves provision of urban services by the Cambria CSD, as part of an independent agreement between the property owner and the CSD, even though it is outside of the USL/URL.

Other projects that have unfolded on the North Cambria rural lands include additional residential development adjacent to the Brown property (A-3-SLO-00-118, currently pending on Commission appeal), as well as various proposals on the CT Ranch. These projects have included a proposal for a temporary sports camp that was a potential prototype for future expanded development, as well as a potential LCP amendment to allow development of 300 residential units and golf course.[11] Although it is always difficult to know exactly how prior development decisions influence the decisionmaking process for future potential developments, land values and economic incentives are usually driven in part by existing legal requirements and decisions. Thus, while the Commission and the County were clear in the administrative record that the Leimert land division should not be seen as precedential, especially in light of its particular circumstances, such decisions no doubt have some influence on those interested in developing adjacent properties.

The development pressures north of Cambria and on the CT Ranch have created strong incentives among the environmental community to pursue more permanent protections of these rural lands. Most significantly, the Nature Conservancy acquired an 800 acre conservation easement on the CT (now Cambria Coast) Ranch in December of 2000. This conservation agreement has been reported as reducing the development potential of the ranch from 23 to 5 residential sites, and has been designed to protect the most significant forest resources on the ranch. Most important, this easement attenuates a significant development pressure for residential sprawl, and may mark the more permanent maintenance of the urban boundary of north Cambria. The lands adjacent to the rural lands are owned by State Parks. Coupled with the buildout of a few remaining lots west of Highway One, there now may be a much less concern for sprawling urban development in this area of the County's coastal zone.

Los Osos Urban Edge Development

The community of Los Osos has also seen significant development pressures on its urban edge. In recognition of this, and in an effort to protect significant ecological resources surrounding Los Osos, a Greenbelt Alliance has formed. This alliance has been working in the community with the County, the newly formed CSD, and other agencies to establish an open space greenbelt around Los Osos. Most recently, a significant property on the southern boundary of Los Osos was acquired by the Department of Fish and Game (Morro Palisades). Additional significant purchases for open space/habitat protection have occurred since LCP certification, including at

[11] See 3-SLO-97-041/A-3-SLO-97-023 (Wesnousky); and DEIR for CT Ranch General Plan Amendment (SCH 89051021).

the former Powell property. Acquisition has also been proposed for the "Broderson" property in association with the current wastewater facility proposal. These acquisitions will play an important role in better anchoring the urban-rural boundary.

On the other side of the ledger, though, reported CDP activity shows at least two areas of concern in the Los Osos urban area. First, the County has approved at least four subdivisions outside of the Urban Services Line since 1988. Two of these approved major residential land divisions. In 1993 the County approved the Monarch Grove subdivision of 48 acres on the southwestern edge of Los Osos into 77 residential units. In addition to raising other issues, particularly concerning sensitive Monarch butterfly habitat protection (see Chapter 4), this subdivision approval appears to conflict with both Public Works Policy 1 and Agriculture Policy 5. These policies set priority for urban infill development and prohibit the extension of urban services such as water and sewer across the USL. It should also be noted, though, that this subdivision was within the Urban Reserve Line, which is the area set aside for long-term growth, assuming adequate infrastructure, no adverse impacts to other coastal resources, and an LCP amendment incorporating the area within the USL.

Similarly, in 1997 the County approved the Cabrillo Associates Tract 1873 subdivision on the steep hillsides of the southern edge of Los Osos (D890423D). This project would subdivide roughly 124 acres into 41 residential lots and several open space lots. Again, this project raises a variety of issues, including visual resources and sensitive habitat protection. Most fundamental, though, as the Commission found in reviewing the appeal of this project, that while the project was within the URL, the subdivision requires the provision of urban services across the USL, again by a private provider, contrary to the LCP requirement to concentrate development and prioritize infill development (see A-3-SLO-98-087). The Commission denied this proposal in the appeal in June, 2000. The applicant has filed a request for Commission reconsideration of this decision and it is also currently in litigation. As discussed later in this chapter, the Commission also found that such service extensions and additional urban development outside of the USL of Los Osos were particularly inappropriate given the current uncertainty about water and wastewater treatment capacity for the community.

Incremental erosion of the urban-rural boundary has also been occurring through the approval of smaller subdivisions and residential projects in Los Osos. One area of concern is the southwestern edge of the community along Pecho Road. This road is a relatively undeveloped scenic corridor leading to Montana De Oro State Park. Since certification of the LCP, though, development has gradually been undermining the urban boundary in this area. The County has recognized the LCP requirements to limit densities in this area in at least one case. The Subdivision Review Board denied a lot split along Pecho road because the applicant's parcel was less than five acres and the minimum parcel size required by the LCP was 2.5 acres (3-SLO-96-059).

In another instance in the same vicinity, a lot split was approved outside of the USL with water supplied by the Cal Cities Water Company (3-SLO-93-028). Although the project was conditioned with open space easements and other mitigations to address Morro Bay Kangaroo Rat habitat impacts, the project did not clearly address the requirements of the LCP with respect to subdivisions outside the USL. Rather, part of the justification for the subdivision appears to

be reliance on a prior approval of a "second primary residence" – itself treated as a principally permitted use -- and an observation that the subsequent subdivision of the parcel would not therefore increase density in such a way as to be contrary to the LCP. Part of the problem again in this area has been the apparent pre-existence of urban services, or the willingness of private water purveyors to extend services across the USL contrary to the LCP.

Finally, more recently the County again approved a minor land division in the Pecho Road area. The project would have added two more lots on a 1.4 acre parcel. The Commission appealed this permit and denied the land division as inconsistent with Public Works policies and the required densities in this area on January 12, 2000 (Linsley, 3-SLO-99-142).

It should be noted that incremental erosion of concentrated urban development in Los Osos has perhaps also been driven by the inability to develop in the urban core where there is currently no urban sewer services, and a septic prohibition has been in place (see below for detail). Reported CDP activity bears this out: at least 33 single family homes have been approved between the USL and URL of Los Osos. These approvals outside of the USL would appear to be contrary to the LCP goal to prioritize urban infill development, particularly given their reliance on urban water supply. Thus, as discussed in more detail in Issue 3 below, the LCP requires that land use permits for development between an urban services line and urban reserve line not be approved unless the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban service line.[12] With the large number of undeveloped residential parcels in Los Osos, and the significant uncertainty about water and sewer capacity in the community, it is not clear how the finding could reasonably be made.

Consistency Analysis: The broad trends in LCP implementation by the County show that the LCP is has led to the concentration of most urban development in existing developed areas. However, there also has been significant pressure to develop beyond the Urban Services Line on lands that are not suitable for urban levels of development, particularly in light of existing deficiencies in sewer and water capacities (see Issue 3 discussion). Such development is not consistent with the Coastal Act objectives of section 30250 to concentrate development in existing urban areas. Some of these projects were problematic for other reasons as well, such as ESHA and visual resource impacts. Most urban edge development pressure has occurred north of Cambria and around Los Osos. And while the potential for expansion of urban development to the north of Cambria may be decreasing, other pressures may emerge in other areas, including southern Cambria.

For example, the County is currently evaluating a potential school site outside the USL on the southeastern edge of Cambria that could break and further destabilize the urban-rural boundary. The Coast Unified School District is requesting a plan amendment to redesignate a 14.7 acres agricultural property to Public Facilities. The project would also require annexation to the CCSD and changes to the USL/URL. This proposal raises significant concerns, including issues

[12] The LCP allows an exception to this policy for a single family home on an existing lot immediately adjacent to the USL, where service could be provided by a lateral connection without extension of a trunk line. Ordinance 23.04.430.

related to the protection of Agricultural lands, visual impacts, and the concentration of development. If amendments are considered that would change the urban-rural boundary, and if they are otherwise approvable under the Coastal Act, they should include maximum provisions to assure that urban services are not further extended, similar to the non-access easements recently required by the Commission in its approval of the City of Watsonville LCP amendment to provide for a new High School. Other development issues in the rural area to the south of Cambria include residential and commercial use of agricultural lands, as well as reuse of the former Air Force Base.

Pressures may continue in other areas of the coastal zone as well, including around Los Osos, Cayucos, the City of Morro Bay and on the rural County lands above the City of Pismo Beach. It will remain important for the County to rigorously apply the existing LCP policies, as well as consider policy alternatives that will clarify the development limitations of lands outside of the urban areas of the coastal zone. It is also important to firmly establish that the LCP policies to protect the urban-rural boundary are the controlling factor in development decisions, rather than allowing independent private service providers to drive the process of development. Development pressures are driven in large part by land development costs, the economic incentives generated through zoning and land use policies and the availability of public services such as water and sewer. In combination with an evaluation of available urban services, the County should continue to consider options for rezoning and relocating the USL to better direct future development potential consistent with available services. For example, in the most recent project description for the North Coast Area Plan Update, the County has proposed redesignating 75 acres currently zoned for residential development to rural and agricultural zoning, as well as relocating the URL/USL to exclude these lands from the urban core. Such changes would help to reinforce the policy goal of concentrating urban development, consistent with Coastal Act 30250.

Preliminary Policy Alternatives

Maintaining urban-rural boundaries and concentrating urban development in the SLO coastal zone could be enhanced through a variety of strategies. The County has already made efforts to address this issue through the pending Estero Area and North Coast Updates. The Advisory Councils for Los Osos and Cayucos also have provided relevant comments back to the Commission in response to the Commission's earlier comments on the EAP Update (see Appendix E). The next step in the County's process for these updates will be to reissue the EAP and Final EIR, and to complete the DEIR and initiate public hearings on the NCAP. In the next several months, the Commission, County, and public will have an opportunity to assess the best strategies and options for addressing the maintenance of urban-rural boundaries, including the following:

Preliminary Recommendation 2.1: Improve Required Findings for Service Extensions Beyond USL.

Development proposals that require the extension of urban services across the USL should not be approved unless the required findings established by Public Works Policy 1 and corresponding ordinances can be made. While the existing certified LCP provides a strong

framework for evaluating new development proposals, County implementation over the last decade suggests that greater emphasis on the requirements of these policies and ordinances is needed in the staff analysis and legal findings of individual coastal development permits.

Preliminary Recommendation 2.2: Improve County/Commission Coordination.
The County and the Commission should take full advantage of coordinated reviews of development proposals outside of the USL, particularly those that may create new urban development potential. Although Commission and County staff resources are limited, experience has shown that enhanced coordination increases the likelihood that the LCP requirements will be reinforced and applied in difficult cases.

Preliminary Recommendation 2.3: Clarify LCP Authority with respect to New Urban Development proposed outside USL.
Conflicting development incentives may be created by non-coterminous certified USLs of the LCP and the boundaries of service providers. LCP amendments should be considered that clarify the controlling authority of the LCP with respect to whether new urban development is appropriate outside of the USL in urban areas. The current NCAP project description includes a standard that would allow provision of urban services beyond the USL in certain limited circumstances, similar to a proposed standard recommended by the Commission in its 1998 review of the NCAP. The implications of this standard in relation to USL/URL should be evaluated.

Preliminary Recommendation 2.4: Reduce Development Potential on Urban Edges.
Evaluate potential for reduction of development intensities on the perimeter of urban areas, including adjusting land use designations, allowable densities, and relocating the USL/URL where appropriate. The County has already proposed some adjustments that would be beneficial in this regard, such as the tightening of the USL on southern edge of Cambria. Other proposals would be logical in light of current events. (For example, removing from the USL the recently acquired Morro Palisades property in Los Osos being set aside for conservation purposes and other areas on the urban fringe designated for residential development but highly constrained by significant habitat values; also, adjusting the USL to reflect the community's greenbelt goals.

Preliminary Recommendation 2.5: Consider Policies and Programs to Support Greenbelt Formation and Maintenance.
Consider incorporation of programs and policies to establish or support greenbelt and open space areas on the urban fringe of developed areas (e.g. Los Osos). Build on and integrate with open space and habitat protection proposals already put forth by the County in the Estero Update.

Preliminary Recommendation 2.6: Encourage Redevelopment Options in Urban Areas.
Greater attention should be placed on redevelopment options inside the USL prior to concentrating any proposals for urban levels of development outside the USL.

C.2. Concentration of Development: Preventing Cumulative Impacts to Rural Lands

Overview: Coastal Act section 30250 requires the concentration of development in urban areas in part to maintain the essential rural and agricultural character of the coast in places like San Luis Obispo County. This policy also does not allow development that would have adverse cumulative impacts to these undeveloped areas. As summarized in Issue 1, the urban-rural boundaries of Cambria and Los Osos have been somewhat eroded by development pressures within these communities to press outwards. Rural areas of the County have also been incrementally impacted, though, by individual developments on agricultural lands that cumulatively have the potential to change the rural character of these areas. Some of these development trends, such as non-agricultural residential development, are discussed in detail in the Agriculture chapter. Other concerns with rural development are addressed in the Scenic and Visual Resources chapter.

Continued focus on potential visitor-serving developments on the rural north coast of San Luis Obispo, as well as incremental expansion of smaller development nodes in rural areas, has also created increased pressure to develop these rural lands. When considered in light of our increasing knowledge about coastal resources in the rural areas, such as limited coastal water supplies and newly identified sensitive habitats, these incremental trends become more problematic. Also, since certification of the SLO LCP, public appreciation of the vast rural coastal areas of the County has increased, highlighting the significance of these lands for the statewide objectives of coastal protection. This is true not only for the vast holdings of the Hearst Ranch, but also for the Harmony coast and the scenic corridors of the Morro Bay watershed. The County has rightly acknowledged many of these changes in recent LCP updates for the North Coast and Estero Area Plans. These proposed changes, as well as other enhancements to the LCP are needed to prevent incremental development from significantly degrading the rural and agricultural character of the SLO coastal zone.

LCP Implementation: Although the reported coastal development activity for the rural areas of San Luis Obispo County accounts only for approximately 10% of the total CDP activity, this development is nonetheless significant within in the context of protecting rural and agricultural lands. For example, while the population of the rural north coast in 2000 was projected to be only 669, this figure represents nearly a doubling of the population in this area of the coast since LCP certification. Overall, the population in the rural areas of the County coastal zone has grown approximately 20% since certification. Such population change can bring significant changes to a rural area, particularly as the demographics and economies of local communities change.

Visitor serving activities associated with the Hearst Castle, San Simeon State Park, and other coastal recreational resources have also continued to expand, bringing more people and traffic to the rural areas of the County's coastal zone. Coupled with continued strong growth in the urban centers such as Cambria, this growth has placed cumulative pressures on Highway One, particularly on the rural North Coast.

Highway One

Highway One runs the entire length of the planning area and, outside of Cambria is generally a two lane road. The current Level of Service (LOS) between the southern boundary of the planning area and the entrance to Hearst Castle is LOS D. This level of service is considered "marginally acceptable and maneuverability and speed selection is restricted for most drivers." Projections in the current NCAP project description indicate that levels of service between Cayucos and Hearst Castle will deteriorate to LOS D and F at buildout. These figures assume a 140% increase in traffic volumes at buildout between Cayucos and Cambria. As discussed later in this chapter, though, Cambria is only about one-third built-out, and can be expected to continue to grow unless an alternative to the large number of existing vacant lots is found. The projected traffic volumes may, therefore, be rather low. Similarly, the traffic volumes between Cambria and Hearst Castle may also be understated. In the Commission's review of the NCAP in 1998, it was found that the plan projects a doubling of traffic (1000 more trips) but a review of the traffic estimates for the Hearst Resorts alone suggested a rather low estimate of 370 to 1102 trips. Thus, development of rural land between Cambria and Hearst Castle could add trips to this section of Highway One. Finally, San Simeon Acres is only about half built-out and would generate additional traffic volumes if other resource deficiencies for new development are addressed.

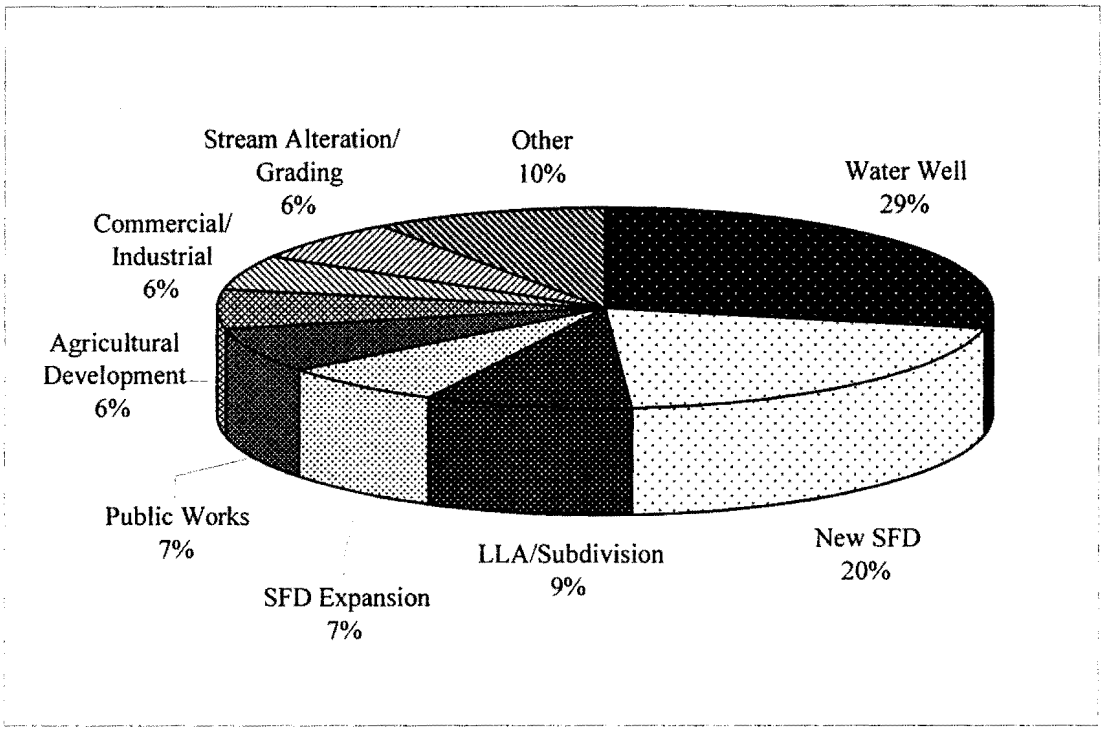
Development Trends

Coastal development trends in the rural areas of the SLO coastal zone suggest an increase of non-agricultural development in rural areas that may not only bring pressure to agricultural lands to other uses, but that may also bring adverse impacts to the relatively undeveloped rural landscapes of the County. As shown in Figure 2-4, reported coastal development permits (approximately 260) show that a variety of developments have been approved in the rural areas of the County, including 54 residential projects (single family homes/mobile homes) in areas of Agricultural or Rural Lands zoning[13], a variety of commercial developments (including a shooting range and winery tasting room), visitor-serving development, and other infrastructure projects such as new road or residential driveway work. At least 20 lot-line adjustments and three subdivisions have occurred on Agricultural and Rural Lands. As discussed in the Agriculture chapter, such lot-line adjustments are often precursors to non-agricultural development that can undermine long-term agricultural and rural lands protection goals. In recent years the Commission has reviewed on appeal proposals for an experimental visitor-serving development on rural lands, a wedding events site on Agricultural lands, and large-lot residential development on non-conforming agricultural parcels.[14]

[13] Some of these are mobile homes to support agricultural activities.

[14] A review of County building permit data also shows similar development patterns, including 34 single family homes in the rural areas of the North Coast and Estero.

Figure 2-4. Development Approved in Rural & Agricultural Areas, 1988-1998



Analysis: As suggested, maintaining the rural and agricultural character of the nonurban areas of the coastal zone requires close attention to the incremental activities that create negative cumulative impacts. Because of their incremental character, their role in this cumulative change is difficult to assess in the individual planning or regulatory decision. Some of these activities are analyzed in more detail in the Agriculture and Scenic and Visual Resource chapters. This section focuses more on the overall cumulative impacts from development that may not be concentrated in urban areas. Two major concerns are highlighted: the need to further concentrate and only allow environmentally-sustainable development on agricultural landscapes north of Cambria, particularly on the Hearst Ranch; and the need to prevent incremental erosion of rural agricultural landscapes through development not directly associated with agricultural activities.

Concentration of Development on the North Coast

Since certification of the LCP, and even since the Commission's 1998 action on the North Coast Area Plan Update, the importance of concentrating development in existing developed areas of the North Coast has become increasingly clear. To be sure, one of the fundamental purposes of the Coastal Act requirement to concentrate development is to avoid or minimize the many types of coastal resource impacts that typically follow from unconcentrated, sprawling patterns of development.

As the County has generally recognized in its North Coast Area Plan, the North Coast is a highly constrained coastal environment of incomparable beauty and significance. There are only a few nodes of development outside of Cambria that are larger than a typical rural residential site: the

small artist colony of Harmony; the motel/hotel node of San Simeon Acres; and the San Simeon Village/Hearst Castle Visitor Center node.[15] Surrounding these small development nodes are miles and miles of relatively undeveloped grazing and agricultural lands. Not only are these important agricultural lands, they are also a stunning visual resource, ultimately transitioning to the more rugged and dramatic topography of the southern Big Sur Coast. A multitude of coastal streams flow out of the hillsides to the ocean, some of them providing important habitat for sensitive species such as Steelhead, red-legged frog, and the western pond turtle. Along this stretch of coast, there are a variety of beach and recreational resources, including automobile turnouts and vistas, trails to rocky shorelines, popular wind-surfing beaches, and the elephant seal haul outs near Piedras Blancas.

Beginning with the earliest days of the Coastal Act and throughout the recent public debate and decisionmaking about the North Coast, the Hearst Corporation and the County LCP has contemplated a variety of visitor-serving developments north of Cambria. Originally, as many as four resort/recreational areas were mapped out, including at the northern edge of the County and in the sensitive Monterey Pine Forest north of Cambria. At least two golf courses have been planned for the North Coast in times past.

Since certification of the San Luis Obispo LCP, though, the natural resource values of this section of California's coast have become both better understood and more deeply appreciated by the public. The statewide significance of this relatively undeveloped stretch of California's coast has become increasingly apparent, particular as development has continued to drastically change other areas of the California coast.

Part of this change in appreciation of the North Coast rural character is perhaps driven by the increasing growth along the SLO coast that has occurred through implementation of the LCP. The vistas of the North Coast have been incrementally impacted by development and expansion of the Hearst Castle Visitor serving facility, which can be seen for miles as one makes their way north from Cambria. Residential development on the northern edge of Cambria and potential development further up the coastline also threaten to permanently alter rural agricultural viewsheds.

As mentioned earlier, increasing visitors to the North Coast, as well as residential growth in Cambria, has brought increased traffic to Highway One. When the Commission certified the LCP in 1988, Highway One was already operating at limited capacities. As of 2000, its capacity is at LOS D or more between Cambria and the Hearst Castle Visitor Center, which means that no more significant traffic-generating growth could be accommodated while still meeting the requirement of the Coastal Act to keep Highway One a two-lane scenic road areas. The current NCAP projects Highway One to go to LOS F in the vicinity of Highway 46 at buildout (NCAP, 5-6). In addition to pressure to expand Highway One, the Highway itself runs the risk of being armored with unnatural looking rip-rap or other shoreline structures, as it has in other urbanizing areas of California.

[15] Isolated individual commercial visitor-serving developments also exist at Piedras Blancas and just north of Ragged Point.

The current project description for the North Coast update contains several goals, programs and policies related to Highway One, including programs and standards that reflect the Commission's 1998 suggested modifications for Highway One. In particular, the NCAP states that "Highway One should be improved to ensure the safe flow of traffic, yet not distract from the scenic nature of the highway." It also observes State law that Highway One must remain a two-lane scenic road in rural areas, while allowing for some exceptions such as passing lanes.

The NCAP Update also modifies the mandatory planning standards for Highway One. A new areawide standard addresses traffic mitigation and requires that development plan and subdivision proposals be reviewed to determine the adequacy of services, including the impacts on the carrying capacity of Highway One. It further states that inadequate road capacity may be grounds for denial of a project unless adequate mitigation measures are incorporated. Increasing traffic levels to an extent that is found to detract from the rural, scenic nature of Highway One shall not be permitted (7-4, #5). This standard also adds language from a Commission recommended modification that would set acceptable levels or service at LOS D and C on Highway segments south and north of the Hearst Castle Visitor center.

In 1998 the Commission also adopted suggested modifications to the North Coast Area Plan Update submitted by the County that, among other things, would limit future visitor-serving developments to a specific envelope at San Simeon Village (see Map 2-A). Other policy modifications would put in place more comprehensive viewshed protections and require evaluation of resource capacities such as water from local coastal streams, prior to considering any intensification of visitor-serving uses along the North Coast.

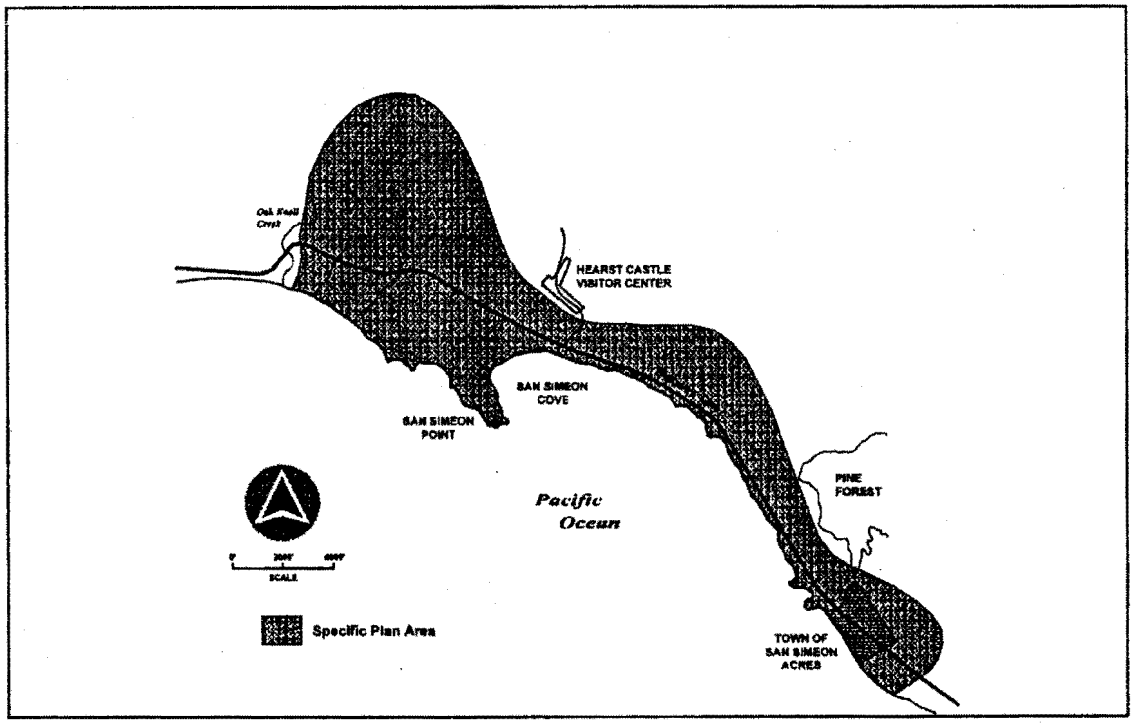
In the most recent County Project Description for the North Coast Update, the County has presented an alternative that would limit visitor-serving development to a specific area, subject to a future specific planning and LCP amendment process (see Figure 2-5). The process described by the County follows:

> *The recommended process to be followed should include the following steps:*
>
> ***A.*** ***Hearst Resorts – Concept.*** *Within the study area, a mixture of visitor serving overnight and commercial and recreational uses may be found appropriate. The sustainable number of units, density, size, and location should be determined after the following studies and processes are completed.*
>
> ***B.*** ***Recommended Process.*** *The following should be the minimum processes for review and approval of a resort development plan:*
>
> *1.* ***Specific Plan.*** *Apply for a specific plan to show the location, type and density of proposed uses, including plans for necessary services and infrastructure according to the applicable sections of the California Government Code.*
>
> *2.* ***Local Coastal Program Amendment.*** *Apply for an LCP amendment to show appropriately sized areas that may be changed to land use designations allowing resort recreational and commercial uses. The amendment should consider consistency with the California Coastal Act*

regarding visitor serving uses, environmental protection, public access, and preservation of coastal resources.

3. ***Environmental Impact Report.*** *Both the Specific Plan and LCP Amendment should be based on consideration of environmental constraints, alternatives, and use of appropriate mitigation and monitoring. A full environmental impact report should address all potential impacts from the land use changes and subsequent development.*
4. ***Economic and Fiscal Report.*** *As part of the environmental review process, prepare an analysis that describes the economic impacts on the region, such as effects on jobs and income and the need for employee housing, and a fiscal analysis to disclose the effects on availability of governmental services and costs.*
5. ***Phasing and Monitoring Plan.*** *The Specific Plan should include a phasing plan to insure that adequate time between phases is provided so that possible negative effects can be identified and mitigated.*

Figure 2-5. Hearst Resorts Concept from NCAP Project Description, 1/00



Source: **Figure 4-1: Hearst Resorts concept - Specific Plan Study Area**

This alternative is significant inasmuch as it puts resource assessment requirements in place that must be addressed prior to pursuing visitor-serving developments, although more emphasis is

perhaps needed on the special Coastal Act requirements that new development have adequate water and other infrastructure, as well as not result in adverse impacts to sensitive coastal resources. The alternative would also update the zoning of most of the agricultural areas currently zoned for visitor-serving recreational development back to an agricultural designation that reflects the current viable grazing use. This possible change to the NCAP is worthy of further consideration in recognition of our current understanding of resource constraints and values along the North Coast. The rezoning of lands back to agriculture, which would be consistent with their status as viable agricultural lands, is also consistent with recent Commission comments on the North Coast Area Plan Update (see Appendix E).

As discussed in the Public Access and Recreation chapter, there is a need to provide for increased public access and recreation along the North Coast. However, such future development should be of a type and intensity that is appropriate for the extremely limited resource capacities of the North Coast (such as water supply and Highway One), as well as located so as to provide maximum protection to the undeveloped rural character of the North Coast. This suggests continuing focus on limiting new development to the existing nodes of San Simeon Acres and San Simeon Village, or to other discrete locations that may be appropriate.[16]

Cumulative Impacts in Rural Areas

Distinct from the problems of future North Coast development, Coastal Act policies to concentrate development and protect rural lands may be undermined by the incremental development of non-agricultural or residential uses not directly tied to agricultural activities. As discussed in the Agriculture chapter, some of this development is occurring on previously unrecognized, non-conforming parcels on rural and agricultural lands. If not monitored carefully, certificates of compliance, lot-line adjustments, and subdivisions can quietly facilitate development that could undermine agriculture over the longrun.

In particular, a changing and booming economy, coupled with a new demographic has brought new challenges to coastal resource management in California. With increasing capital and technological capabilities, there is expanding interest in developing increasingly large residential home sites in more remote areas. In contrast to the typical agricultural homestead, these houses may be large estates not directly related to or supporting the agricultural use of the surrounding land. Because of their character, they also may bring increased impacts to visual resources and sensitive habitats. The Commission has recently been struggling with a number of such homes in rural areas of northern Santa Cruz County and southern San Mateo County. As discussed in the Agriculture chapter, the desire to move into the rural areas has contributed to pressures to convert grazing lands to residential land uses. The development of non-agricultural estates may, over the long run, drive out legitimate agricultural and farm uses. Along the more remote Harmony coast, a number of proposals have been approved or are pending for residential development on grazing lands that also present incredible rural vistas to the public, as well as unique opportunities to provide limited public access and habitat preservation.

[16] For example, the BLM has recently acquired the lighthouse at Piedras Blancas, a location that the Commission has previously identified as appropriate for limited visitor-serving development such as a youth hostel.

In the small artist colony of Harmony itself, there is continuing interest in expanding the commercial activities through conversion of small acreages of agricultural land. Coupled with residential pressures in the rural areas, such non-agricultural developments combine to create even greater incentives for converting agricultural rural areas to residential and commercial enclaves. Agricultural lands themselves are changing in ways that bring more commercial activity into areas. For example, since LCP certification, at least three different winery proposals have been considered in Harmony (3-SLO-92-072; 3-SLO-97-165; and D0000027b).

The Harmony Coast presents a good example of how incremental changes over the longrun can slowly change the character of rural lands. As summarized in Table 2-7, this amazing stretch of coastline has seen subdivision and lot-line adjustment activity, as well as residential development that is slowly converting this area from an undeveloped rural landscape, characterized by cattle grazing operations, to an area of large lot homes or ranchettes, that dramatically changes the rural agricultural character of the area, and ultimately threatens the viability of these historic grazing lands.

The Morro Bay Limited residential project discussed in detail in Chapter 5-Agriculture is a good example of this trend. The project was approved by the Commission on appeal in 1999. The case involved a proposal to develop 9 large-lot residential parcels on an agricultural grazing parcel along the Harmony coast. The Middle Ranch, which had functioned as a single 742-acre ranch, was auctioned in the early 1990s along with the South and North Ranches. The property was explicitly marketed for future potential residential development. In the case of Morro Bay Limited, the Ranch was effectively parcelized through the legal recognition of developable albeit non-conforming parcels in the County's certificate of compliance process (see Agriculture chapter for detail). Written evidence was presented to the County that established the presence of multiple parcels on the ranch that did not conform to the required minimum lot size of 320 acres that would typically apply on such grazing lands. This evidence consisted primarily of deeds of sale describing individual pieces of property that together made up the larger Middle Ranch. As discussed elsewhere in the report, although these parcels had been in single ownership for some time, it is difficult to not provide them with legal recognition under the State Subdivision Map Act. More important, once certified, it is difficult to limit development potential on such parcels without raising questions about Constitutional property rights.

Preservation of agricultural values and rural character is not the only issue raised by developments such as the Middle Ranch residential project. These developments also bring new concerns about visual impacts from access road development and new structures, and questions about habitat and wetland preservation on parcels that may have seen only grazing for a hundred or more years. Other projects have been approved since LCP certification that highlight the same concerns as the Middle Ranch case, including a controversial road development that would serve residential development on 14 large parcels on the Cambria Ranch a few miles inland from the coast.[17]

[17] See 4-SLO-90-103; also 3-SLO-99-132 (Prian), a project progressing from legal recognition of lots to road building on steep slopes to serve anticipated residential development.

Table 2-7. Cumulative Change on the Harmony Coast, west of Highway 1 (Major Projects)

Year	Projects	Description/Status
1974-1997	CO74-0301 3-SLO-95-056 3-SLO-97-165	• 1974 Subdivision of a 120 Acre Parcel into Four 30 acre parcels/road dedication. • Construct 1517 sq. ft. mobile home, garage, barn • Convert 230 sq. ft of existing SFD to winery
1974	CO74-0301	• Lot-Line Adjustment
1983	CO83-0097	• Divide 705 acre lot into 355 and 350 acres for Ag Purposes
1989	5-SLO-89-099	• Construction of Aquaculture Facility
1989	4-SLO-89-315 (COAL89-0040) 5-SLO-89-180	• Adjust two parcels on Gooden cattle ranch from 440 and 40 acres to 420 and 60 acres. Enlarges 40 acre blufftop lot and locates it adjacent to existing access easement. • Construct 4,365 sq. ft. residence on blufftop lot
1992	3-SLO-92-114	• Construct Cellular Tower in Highway One viewshed.
1993	Dalidio/Zapata Farms, 3-SLO-93-066; 3-SLO-93-124 (COAL89-0397)	• Lot-line Adjustment of 8 non-conforming parcels on 570 acres of North Ranch, ranging from 38 to 166 acres to 8 parcels ranging from 39 to 226 acres. Creates 5 shorefront residential sites and 3 agricultural parcels.
1994	3-SLO-94-143	• Construct 4400 sq. ft. residence
1995-1999	Morro Bay Limited A-3-SLO-99-014/032(COAL94-0130)	• Lot-line Adjustment of 9 Parcels on 746 acres of Middle Ranch; creation of 8 residential home sites and parcels ranging from 20 to 39 acres and 1 agricultural remainder of 542 acres. • Access Road Construction
1996	3-SLO-96-044 COAL95-0066	• Adjust two parcels on 734 acre Ranch from 218 (non-conforming) and 516 acres, to 321 and 413 acres to facilitate sale and development. Creates two conforming shorefront parcels.
1993-1994	McBride 3-SLO-93-075 3-SLO-94-122	• Construct access road, drill test wells; • Construction of 3000 sq. ft. single family dwelling, Barn with attached guest house, six wind generators, 2 solar panel arrays, windmill, future barn.
2000	Schneider A-3-SLO-00-040	• Proposed 10,000 sq. ft. Single Family Home and 1.25 mile access road, Pending on Appeal to Commission
2001	Townsend	• Proposed 90 ft. wireless communication tower; pending at County
2001	County Permit D000027	• Construct 5,800 sq. ft winery and tasting room; pending at County
2001	Williams	• Proposed Lot-line Adjustment of two parcels, pending at County

Consistency Analysis: Coastal Act Section 30250 requires that new development be concentrated in existing developed areas able to accommodate it. The current LCP does not contain sufficient programs, policies and standards to address this requirement, particularly in light of continuing cumulative development trends and increased knowledge about the lack of water to support new development without adverse impacts to sensitive resources. This problem was extensively discussed by the Commission in its 1998 Findings for the NCAP. In addition, Coastal Act Section 30254 requires that Highway One be maintained as a scenic, two lane road in rural areas. With the exception of Cambria and San Simeon Acres, all of the North Coast planning area is rural. As the Commission found in 1998, this section of Highway One must remain two lanes to be consistent the Coastal Act. The LCP will need to be updated to reflect this concern. Finally, as discussed in the Agriculture and Scenic and Visual Resource chapters, the LCP should be updated to respond to the potential for incremental loss of agricultural and rural lands due to encroaching residential and other non-agricultural development. As currently certified, the LCP is not adequate for achieving conformance with Coastal Act policies to prevent cumulative impacts to agricultural lands and scenic rural landscapes. Further concentration and limitation of development intensities will be needed to assure consistency with Section 30250.

Preliminary Policy Alternatives

The following policy options should be read in conjunction with options presented in the Agriculture and Scenic and Visual Resource chapters. In addition, many specific recommendations concerning the North Coast will need to be reevaluated over the next several months in light of the County's current Project Description for the North Coast and the Commission's recent comment letter on the Plan (see Appendix E). Preventing the cumulative erosion of rural and agricultural character in SLO will require a variety of strategies ranging from increased coordination between the County and the Commission to LCP amendments recognizing the highly constrained development potential of these lands.

Preliminary Recommendation 2.7 Strengthen Standards to address development potential on Non-conforming Lots.
Lot-line adjustments can increase development potential if not strictly evaluated under the standards of the LCP. Currently unbuildable lots should not be adjusted so as to become buildable. In addition, resource protection policies should be the controlling principle when adjusting nonconforming lots on agricultural lands to provide maximum disincentives for nonconforming development. As discussed, in Morro Bay Limited, parcel sizes were set at 20 acres because of the agricultural zoning, when the reality of the development proposal was to promote nonconforming residential development. A small lot residential cluster might have better maximized the agricultural values of the land as well as protected other resources such as ESHA and scenic views. Amendment of current lot-line adjustments review criteria should be considered that would require adjustments to reasonably comply with all LCP Coastal Plan Policies and Ordinances within the constraints of Constitutional takings jurisprudence. More detailed discussion of policy options is discussed in the Agriculture chapter.

Preliminary Recommendation 2.8 Evaluate Options for Processing Non-conforming lots in Single Ownership

The County and Commission should evaluate options available for processing non-conforming parcels in a single ownership, including legal options for lot merger, to maximize protection of agricultural lands. Proposals to adjust or development single parcels of larger agricultural holdings should not be allowed without comprehensive evaluation of the entire agricultural holding.

Preliminary Recommendation 2.9. Concentrate Development at Limited Existing Nodes. Opportunities for expanding nodes of development on the rural North Coast can be minimized through rezoning of recreational lands to Agriculture. Such land use changes would recognize the agricultural value of these lands as well as the severe resource constraints, particularly water supply. Current Update efforts should consider limiting new visitor-serving development to the existing commercial node at San Simeon Village and in or adjacent to San Simeon Acres.

Preliminary Recommendation 2.10. Require Resource Capacity Studies prior to Major Development Proposals.
Resource impacts to rural lands can be avoided by requiring resource capacity studies, consistent the RMS system, prior to pursuing development proposals or plan changes (see NCAP project description e.g.) It should be acknowledged that lacking further resource assessments, the rural North Coast is effectively at or beyond LOS III for increased development.

Preliminary Recommendation 2.11. Update LCP to address Large Residential Development
Add policies and ordinances to provide better define residential uses in support of agriculture; establish standards that provide rural viewshed protection, limit site disturbance, minimize water resource impacts, protect sensitive habitats and otherwise address the increased impacts from "non-agricultural" residential development.

C.3. Availability of Services: Environmentally-Sustainable New Development

Overview: Coastal Act section 30250(a) requires that new development be concentrated in and around existing developed areas that have sufficient public services to support such development. Where such areas are not available, development must be located where adequate public services exist, and where the development will not have significant adverse effects, either individually or cumulatively, on coastal resources. New development should not be approved if there is inadequate water supply, wastewater treatment, or public road capacity. Coastal Act section 30231 requires the prevention of groundwater depletion

San Luis Obispo County has a number of communities under severe resource constraints. In the short-term, more aggressive LCP implementation and amendments are needed to address lack of water, sewer, and road service capacity. In the longer term, LCP programs and policies will be needed to reduce buildout potential, particularly in communities where there are antiquated small-lot subdivisions.

Policy Framework: Public Works Policy 1 cited earlier embodies the Coastal Act policy to approve only environmentally-sustainable development by requiring a finding to be made that "there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line" prior to permitting all new development. This required finding is also mandated by section 23.04.430 of the Coastal Zone Land Use Ordinance. More important, section 23.04.430 and Ordinance 23.04.021 establish rigorous findings for approving new development in areas that are facing critical resource shortages. Thus, section 23.04.021(c) contains overriding land division requirements for development review in urban areas with limited water or sewage disposal service:

> *(i) Within an urban services line, new land divisions shall not be approved unless the approval body first finds that sufficient water and sewage disposal capacities are available to accommodate both existing development and development that would be allowed on presently vacant parcels*
>
> *(ii) A proposed land division between an urban services line and urban reserve line shall not be approved unless the approval body first finds that sufficient water and sewage disposal service capacities are available to accommodate both existing development within the urban services line and development that would be allowed on presently vacant parcels within the urban services line.*

Ordinance 23.04.430 sets up essentially the same requirements for all development, with particular attention again on mandatory findings that services are available in communities where water and sewer capacities are limited:

a. *A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban service line.*

b. *Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.*

The Resource Management System

To facilitate implementation of Public Works Policy 1 and its corresponding ordinances the SLO County LCP requires the use of a Resource Management System (RMS)[19]. The RMS is an

[19] Policy 6 states: The county will implement the Resource Management System to consider where the necessary resources exist or can be readily developed to support new land uses. Permitted public service expansions shall

annual evaluation of available essential resources throughout the county including water supply, sewage disposal, roads, schools, and air quality. The RMS identifies where resources exist or are deficient to support growth. The RMS is designed to be a growth management tool to assess information and identify management measures or necessary capitol improvements to support existing and new development. In theory, it is also an important mechanism for assuring that coastal resources, particularly groundwater basins and creeks, are not overly impacted by development.

The RMS uses three levels of alert (called levels of severity, or LOS) to identify potential and progressively more immediate resource deficiencies. The alert levels are meant to provide sufficient time for avoiding or correcting a shortage before a crisis develops. Level I is defined as the state when sufficient lead time exists either to expand the capacity of the resource or to decrease the rate at which the resource is being depleted. Level II identifies the crucial point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity. Level III occurs when the demand for the resource equals or exceeds its supply.

As described in the LCP's Framework for Planning, the Planning Department notifies the Board of Supervisors when RMS monitoring indicates that a particular resource level of severity in a community appears to have been reached. If the Board concurs in the recommended LOS, a more detailed resource capacity study is completed, followed by public hearings and review by the Planning Commission. Based on this review, the Planning Commission recommends an LOS to the Board. The RMS outlines specific measures that must be implemented for each LOS if the Board formerly certifies the recommended level. These measures includes such things as identifying and funding new capital improvements, imposing conservation measures, or even enacting development moratoriums.

Services Overview

Water Supplies in San Luis Obispo County Coastal Zone. Water availability and quality are key factors affecting growth in the San Luis Obispo coastal zone. The RMS reports that the communities of San Luis Obispo County obtain almost 60 percent of their water from groundwater supplies and roughly 40 percent from reservoirs. As summarized in Table 2-8, development in the North Coast Planning Area draws all of its water from groundwater sources underlying coastal creeks. In the Estero Planning Area, water is drawn from both groundwater basins and delivered from two reservoirs: Whale Rock above Cayucos, and Lopez Reservoir, located outside the Five-Cities urban area. Finally, the State Water Project, which imports water by pipeline from sources in northern California, also brings water into the SLO coastal zone in the City of Morro Bay, and the communities of Avila Beach, and Oceano.

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ensure the protection of coastal natural resources including the biological productivity of coastal waters. In the interim, where they [sic] are identified public service limitations, uses having priority under the Coastal Act shall not be precluded by the provision of those limited services to non-priority uses.

Table 2-8. SLO Coastal Zone Water Sources and Uses

SOURCES	CURRENT USES
North Coast Planning Area	
San Carpoforo Creek	Agriculture; Rural
Arroyo de la Cruz	Agriculture; Rural
Pico Creek	Municipal (San Simeon Acres); Agriculture (Hearst Ranch Grazing)
San Simeon Creek	Municipal (Cambria); Agriculture
Santa Rosa Creek	Municipal (Cambria); Agriculture
Estero Planning Area	
Villa Creek	Agriculture; Domestic Use
Cayucos Creek	Agriculture; Domestic Use
Old Creek	Municipal (Cayucos); Agriculture
Toro Creek	Agriculture; Domestic Use
Morro Creek	Municipal (Morro Bay); Agriculture
Chorro Creek	Municipal (Morro Bay); Agriculture
Los Osos Creek	Municipal (Los Osos); Agriculture; domestic
State Water Project	City of Morro Bay
Morro Bay Desalination Plant	City of Morro Bay
Whale Rock Reservoir	Cayucos; City of San Luis Obispo
San Luis Bay Planning Area	
Lopez Reservoir	Municipal (Pismo Beach, Grover Beach, Avila Beach, Avila Valley, Arroyo Grande)
Arroyo Grande Creek/Groundwater Basin	Municipal (Pismo Beach, Grover Beach, Oceano, Arroyo Grande); Agriculture
State Water Project	Avila Beach; Oceano
South Coast Planning Area	
Arroyo Grande Creek Groundwater Basin	Agriculture; Domestic (Nipomo Mesa)

In the urban areas of the coastal zone, water delivery is generally governed by County Service Areas (CSA's) and Community Services Districts (CSDs), and delivered either by these Districts or private water companies operating in addition to a CSD. In locations relying on groundwater withdrawals, the CSDs are themselves subject to regulation by the State Water Resources Control Board, Division of Water Rights (DWR). Thus, any services district (or individual) wishing to appropriate water from surface streams, other surface bodies of water, or from subterranean streams flowing through known and definite channels, must apply for a permit from the DWR. An "appropriative right" to water is required for lands that do not contain or abut the water source. The DWR will permit a specified allocation for water extraction and storage, as well as any specific conditions limiting withdrawal at certain times of year.

As discussed in more detail below, some communities such as San Simeon Acres and Cambria have allocations from the State Department of Water Resources to extract water from coastal groundwater basins. Other communities have agreements with developed reservoirs or the State Water Project to gain their supply. In some cases, such as Avila Beach and the City of Morro Bay, the importation of State Water has relieved very serious concerns about water shortages and impacts on water resources in the area.

In rural areas, water supply tends to be governed by both appropriative rights and riparian rights. In contrast to appropriations from groundwater or surface waters to lands located elsewhere, lands within the watershed of a natural watercourse, which are traversed thereby or border thereon, have riparian rights to withdraw water. Entities wishing to exercise their riparian rights, must submit a statement to the DWR reporting the amount of water to be diverted and stored. Currently the DWR has a record of 31 appropriative rights and 62 riparian rights within the coastal zone of San Luis Obispo.[20]

Although the water allocation and use from all private entities combined may not seem significant, it must be noted that senior, riparian users have priority over appropriators such as the services districts. They may also divert additional water if fallow, riparian fields are brought into production. For example, according to Table 3-2 of the North Coast Update, agricultural uses that rely on water from Santa Rosa, San Simeon and Pico Creeks withdraw a total of 1356 afy for irrigation and stockwatering.

Community services districts or other entities wishing to withdraw groundwater *not* flowing through known and definite channels, must record the location and number of wells they construct with the Environmental Health Division of the County Health Agency. The Health Agency neither requires a requested allocation amount from the users, nor has the authority to set allocations. Water extractors are also not required to report actual extraction amounts. From 1988 through 1998, the Health Agency has a record of 260 well drill reports within the coastal zone. However, because no recordation of water extraction exists, there is no way to ascertain the overall effect these wells have on the groundwater basins. Los Osos is the only urban community within the coastal zone which receives its water in this manner.[21]

As discussed in more detail later in this chapter, water supplies are under severe stress in the communities of San Simeon Acres, Cambria, and Los Osos. Cayucos also has limited supply. There is considerable uncertainty about the safe yield of many coastal groundwater basins, particularly in light of the lack of developed information about the habitat and other natural resource values of the creeks that supply these basins. This uncertainty leaves the resources highly vulnerable to over-use, and raises questions about the ultimate ability to support new development. Finally, in recent years urban areas have been coming to terms with groundwater contamination from MTBE, which places even great stress on the reliability of coastal creeks as water supplies. In recent months, Morro Bay, Cambria, and Los Osos have been responding to MTBE contamination on an emergency basis.

Wastewater Disposal Capacity. Six sewage treatment facilities serve communities within the coastal zone. Los Osos is the only urban area not currently served by a treatment facility. As shown in Table 2-9, all facilities are operating well under full capacity. The Regional Water Quality Control Board (RWQCB) regulates the operation of Sewage Treatment Plants and usually requires a moratoria on new hook-ups when a plant reaches 80-85% of its rated capacity.

[20] State Water Resources Control Board, Division of Water Rights, 8/8/2000. These figures do not include stockpond permits or statements due to their size limitation (i.e. less than 10 afy).

[21] In their capacity as services districts, the water purveyors in Los Osos are required to report annual water production to the County Department of Building and Planning.

The 2000 RMS projects that wastewater capacity for Cambria, Avila Beach and Oceano should be sufficient for the foreseeable future. Although no community serviced by a treatment plant has a recommended LOS, factors exist in Cayucos and San Simeon that may affect service for the projected buildout population.

Table 2-9. Wastewater Treatment Facilities

Facility	Capacity(1)	ADWF(1,2)	Percent Capacity	1999 Population	Est. Population at 100% Capacity(3)	LOS(4)
San Simeon CSD	0.20	0.070	35.0	250	714	OK
Cambria CSD	1.00	0.546	54.6	6,549	9,936(5)	OK
Morro Bay Treatment Plant (Cayucos)	0.944	0.328	34.7	3,225	9,293	OK
Avila Beach CSD	0.20	0.033	16.7	N/A	N/A	OK
So. SLO County Sanitary Dist. (Oceano)	7.50	2.810	37.5	25,100	93,600	OK

(1) In Millions of gallons per day
(2) Average Dry-Weather Flow
(3) 100% Capacity of Treatment Facility only.
(4) RMS Level of Severity
(5) The North Coast Update estimates that the treatment plant could accommodate about 8,000 persons for the permanent population, leaving 27% of plant capacity for the tourist population using local commercial facilities. This computation is based on the seasonal increases of approximately 30% that result during the summer peak period of recreation use. 100 gpcd is used as a conservative estimate for planning purposes.

Road Capacity. Road capacity for new development is important to maintain, particularly in areas where public shoreline access is especially valuable. The availability of streets and roads to carry vehicular traffic depends upon several factors: number of traffic lanes, surrounding terrain, existence of roadway shoulders, and number of other vehicles. The 1985 Highway Capacity Manual, published by the Transportation Research Board, sets standards for these and other factors which determine traffic "levels of service" ranging from level "A" to "F.

Table 2-10. Road Capacity, Levels of Service

Level of Service	Corresponding Traffic Flow Conditions
A	Free flow. Unlimited freedom to maneuver and select desired speed.
B	Stable flow. Slight decline in freedom to maneuver.
C	Stable flow. Speed and maneuverability somewhat restricted.
D	Stable flow. Speed and maneuverability restricted. Small increases in volume cause operational problems.
E	Unstable flow. Speeds are low; freedom to maneuver is extremely difficult. Frustration is high.
F	Forced flow. Stoppages for long periods.

The RMS uses the Highway Capacity level of service ratings to base its level of severity alerts. LOS I is defined when traffic projections indicate that roadway level of service "D" will occur within five years. LOS II is for indications that roadway level of service "D" will occur within two years, and LOS III is given when calculation of existing traffic flows indicated a level of service "D". The Resource Management System only considers roads under county jurisdiction.

Information on state highways is provided by the Regional CalTrans office. Private roads are not evaluated in this report.

Since the time of certification there have been only four communities that have had recommended levels of severity placed on them by the RMS: Avila, Los Osos, Cambria and Cayucos. Avila and Cayucos no longer have LOS designations; both Cambria and Los Osos have retained a LOS III recommendation since the 1990 RMS report.

For the San Luis Obispo coastline, road capacity is important to maintain for both general public access and for supporting visitor-serving activity. However, as discussed in Issue 2, Highway One must also remain a two-lane road under Coastal Act 30354. Ultimately, this road capacity may be a key limiting factor in determining future growth potential along the SLO coast.

LCP Implementation: Each community in SLO County has distinct issues concerning availability of public services for new development. In some cases, the RMS system has worked to support the development of new resources for coastal development. The County has also produced regular RMS reports and the Board of Supervisors has directed that some Resource Capacity studies be done based on the results of the RMS. More often than not, though, the RMS system has not been used to its full advantage in communities where there are inadequate water and sewer supplies. Each community is discussed in the following section.

San Simeon Acres

Originally part of the old Rancho San Simeon, the community of San Simeon Acres lies along the Pacific Ocean overlooking San Simeon Bay. The Village Reserve Line (equivalent to the USL) of San Simeon Acres contains about 80 acres. San Simeon is a small commercial village developed to provide tourist/recreation services along the central coast. There are 706 visitor-serving hotels and motel rooms currently in San Simeon Acres. Because of the large number of second homes and resulting high vacancy rates, the actual permanent population of San Simeon Acres is difficult to estimate. According to the 1990 U.S. census, San Simeon Acres had a permanent population of 128. Recent County estimates place the current population at approximately 248 and list a total of 330 dwellings.

TABLE 2-11. RMS REPORTED LEVELS OF SERVICE FOR SAN SIMEON ACRES

	90	91	92	93	94	95	96	97	98	99	00
Water Supply	3	3	3	3	3	3	3	3	3	3	3
Water Distribution	0	0	0	0	0	0	0	3	3	3	3
Sewer Capacity	3	3	0	0	0	0	0	0	0	0	0
Roads	0	0	0	0	0	0	0	0	0	0	0

As summarized earlier, San Simeon Acres currently has adequate wastewater disposal capacity, provided by a treatment facility in the town itself. In addition, there no significant road capacity issues, other than the question of available capacity on Highway One in light of projected growth and visitor-serving activities in the planning area. Like the rest of the North Coast Planning Area, however, water supply is tenuous in San Simeon. The San Simeon Community Services District (SSCSD) provides the community with water from two wells along Pico Creek. Although its existing permit from the State Water Resources Control Board (SWRCB) allows

total production of 140 acre-feet per year (afy), the North Coast Area Plan Update estimates dependable yield from this groundwater source to be only in the vicinity of 120-130 afy. In the production year ending in 1999, the SSCSD reported production of 107 af from Pico Creek. The County reports that another 16 af was withdrawn from the creek for livestock watering.

Due to water consumption approaching and exceeding the basins' identified safe yield, San Simeon has been under a SSCSD building moratorium since January 1986. The RMS has recommended a LOS III for San Simeon's water supply in recent years and the most recent County North Coast Update submittal indicates that the community has passed beyond LOS III. Although there is compelling evidence of this resource incapacity, including a self-imposed moratorium by the CSD in 1986, the Board of Supervisors has not certified the LOS III for San Simeon Acres. Subsequent to the moratorium, SSCSD Board imposed conservation measures, a retrofit program and prohibitions on outdoor water use have been necessary to maintain *existing* levels of development.

The SSCSD moratorium has been effective in preventing new significant withdrawals from Pico Creek. Since certification of the LCP in 1988, only 17 coastal development permits have been reported to the Commission. No new homes have been approved and development has been limited to such things as tree removal, condominium conversion, and minor commercial development. The most significant development approved between 1988 and 1998 was for a water pipeline to connect to the planned Cambria Desalination Plant (see below), and for expansion of Pico Creek Bridge. Finally, the NCAP submittal from the County identifies the proliferation of commercial signs along Highway One as a growing concern for visual resources and community character protection.

The County estimates maximum buildout at 862 dwellings with a population of 1,207 at 100% occupancy rate. According to the County, at current residential water use rates, 240 afy of water would be needed to serve the buildout population. As shown in Table 2-12, total buildout will create a substantial deficit over the sustainable yield of Pico Creek. Of course, the Pico basin may already be in overdraft when combined urban and agricultural use is considered. It also should be noted that the balance of water in the system is highly dependent on the assumptions one makes about actual water usage. In the table below, two different water use assumptions are presented that are derived from actual use numbers and assumptions about residential and hotel uses. Thus, if the typical use per resident is 120 gpd, the hotel/motel use would be approximately 133 gpupd based on actual consumption for 1999. These assumptions may not be adequate for assessing the actual available water supply in Pico Creek.

Table 2-12. San Simeon Acres/Pico Creek Water Supply

Demands	Assumed Use Rate	Acre Feet/ Year	Total Withdrawals	Safe Yield	Balance
Existing Development					
248 Permanent Residents	120 gpd	33	110 (2000 actual urban use) + 16 Ag **126 acre feet**	120-130	-6 to 4 af
	173 gpd	48			
706 Hotel/motel Units	133 gpupd	58			
	100 gpupd	43			
Agriculture Withdrawals	-	16			
Buildout Projections					
1229 Permanent Residents	120 gpd	165	267-319 293 avg.	120-130	**163-173 deficit**
	173 gpd	238			
1055 Hotel/motel Units	133 gpupd	86			
	100 gpupd	65			
Agriculture Withdrawals	-	16			

Currently San Simeon's certified Land Use Plan is poorly matched with the water supply available to support it. Water supply is severely strained by existing levels of development, not to mention potential buildout. The community has explored the possibility of additional water sources, including desalination, surface storage, wastewater reclamation and a cooperative arrangement with the Cambria CSD involving groundwater recharge. The SSCSD also considered the importation of supplemental water from Lake Nacimiento, but dropped out of the project due to its high projected cost. More recently, the SSCSD has been participating in efforts to develop a desalination plant in Cambria.

In the recent NCAP project description, the County has proposed several standards for San Simeon Acres that would, among other things, reserve 75% of available water and sewer capacity for visitor-serving uses; and that would prohibit new development that relies on water from Pico Creek until a study of instream flow and habitat impacts is completed for the creek (NCAP, 7-120).

Cambria

The town of Cambria was established in the late 1860s. The town provides many visitor-serving amenities and is an attractive residential center along the North Coast. One of the great recent highlights for land use planning in Cambria was the acquisition of East-West Ranch. This community-wide effort removes this tremendous open space property in the middle of Cambria from potential development. Cambria, though, still has many coastal planning challenges ahead of it. There are approximately 1,935 acres of land within the URL of Cambria. Unfortunately, in the 1920s the Cambria Development Company subdivided huge tracts of hillside land surrounding the commercial center of the town into a grid of small lots—typically 25' x 70'—

regardless of slope, the need for services or the effects on the natural environment. According to the County, there are approximately 3783 existing residential units in Cambria, supporting a population of 6,242. The County also estimates 11,701 units at build-out (pop. 26,327), meaning that only one third (32%) of the legally-available development potential of Cambria is built.[22]

TABLE 2-13. RMS REPORTED LEVELS OF SERVICE FOR CAMBRIA

	90	91	92	93	94	95	96	97	98
Water Supply	3	3	3	3	3	3	3	3	3
Water Distribution	3	3	3	3	3	3	3	3	3
Sewer Capacity	0	0	0	0	0	0	0	0	0
Roads	3	3	3	0	3	3	3	3	3
Schools	3	3	3	3	3	3	3	3	3

The thousands of vacant lots remaining in Cambria raise a variety of coastal resource planning issues. First and foremost is the challenge of reducing the build-out potential of the many small lots within the Urban Services Line. As discussed below, the County currently has a Transfer of Development Credit program in place in an effort to reduce the number of potential building sites in Cambria. Such reduction is necessary particularly in light of limited water supplies from Santa Rosa and San Simeon Creeks. In its 1998 review of the NCAP, the Commission found that existing development (1997) may be overdrafting these creeks, and adversely affecting wetlands and riparian habitats.

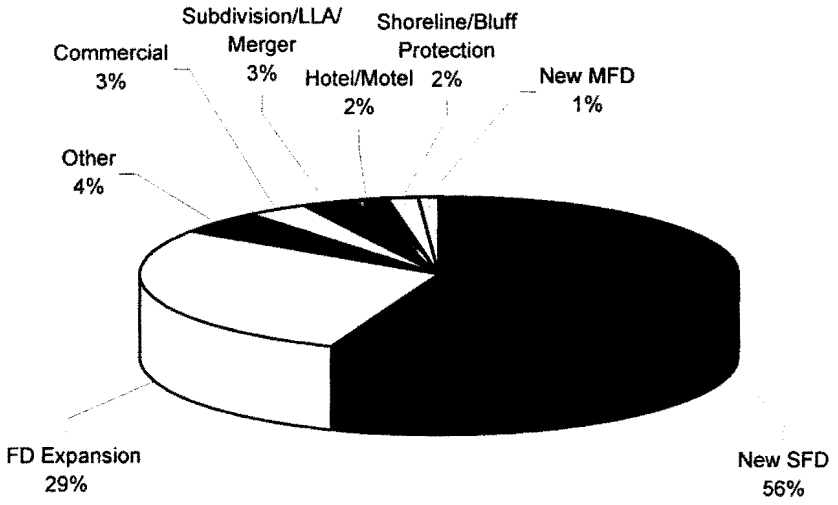
The existing and planned build-out for Cambria also raises serious concerns about a number of issues, including preservation of the native Monterey Pine Forest stand within Cambria, increased withdrawals from San Simeon and Santa Rosa Creeks, erosion and nonpoint source pollution from development on steep slopes, road and school capacity and other urban planning issues. Indeed, as shown in Table 2-13, Cambria has been facing resource limitations in multiple areas since certification of the LCP. The density and size of Cambria's residential lots has also raised concerns about community design, including the appropriate scale of new homes. Finally, like most urban areas in California, Cambria faces issues related to shoreline erosion and preservation of natural shorelines. This section will focus on the development issues of available services and development potential. Other Cambria issues are addressed in other chapters of this report.

Residential Development in Cambria

As previously discussed, since the 1988 certification of the SLO LCP most of the County's reported coastal zone development has been for residential related development in Cambria. As shown in Figure 2-6, within Cambria, reported approvals for new single family residences or improvements from 1988-1998 overwhelm over types of development, accounting for approximately 85% of 1067 permits.

[22] This assumes full vacancy rate. At the current vacancy rate, buildout would be 19,305. *NCAP Update—Revised Buildout Estimates; Background Report September 1999.*

Figure 2-6. Cambria Coastal Development Permit Distribution, 1988-1998



Creation of new residential development potential in Cambria has not been significant since certification of the LCP. As discussed previously, only five subdivisions were approved in or around Cambria under the LCP between 1988 and 1998, and three of these did not create any new development potential per se. Only the subdivision of Leimert (3-SLO-97-130, 18 lots) added new residential building potential.[23] Another subdivision for 25 condominium units (Vadnais 3-SLO-96-056) was denied on appeal by the Commission; however, recent court decisions bring into question the final outcome of this proposal.

It should also be noted that with the recent acquisition of East/West Ranch, which may eventually go to the CCSD, the last opportunity for significant potential subdivision—a maximum of 265 lots on the western portion of the Ranch—has been eliminated. Not only does this acquisition remove future development potential, it will also provide a great public benefit for the community of Cambria, particularly with respect to public access and resource protection.

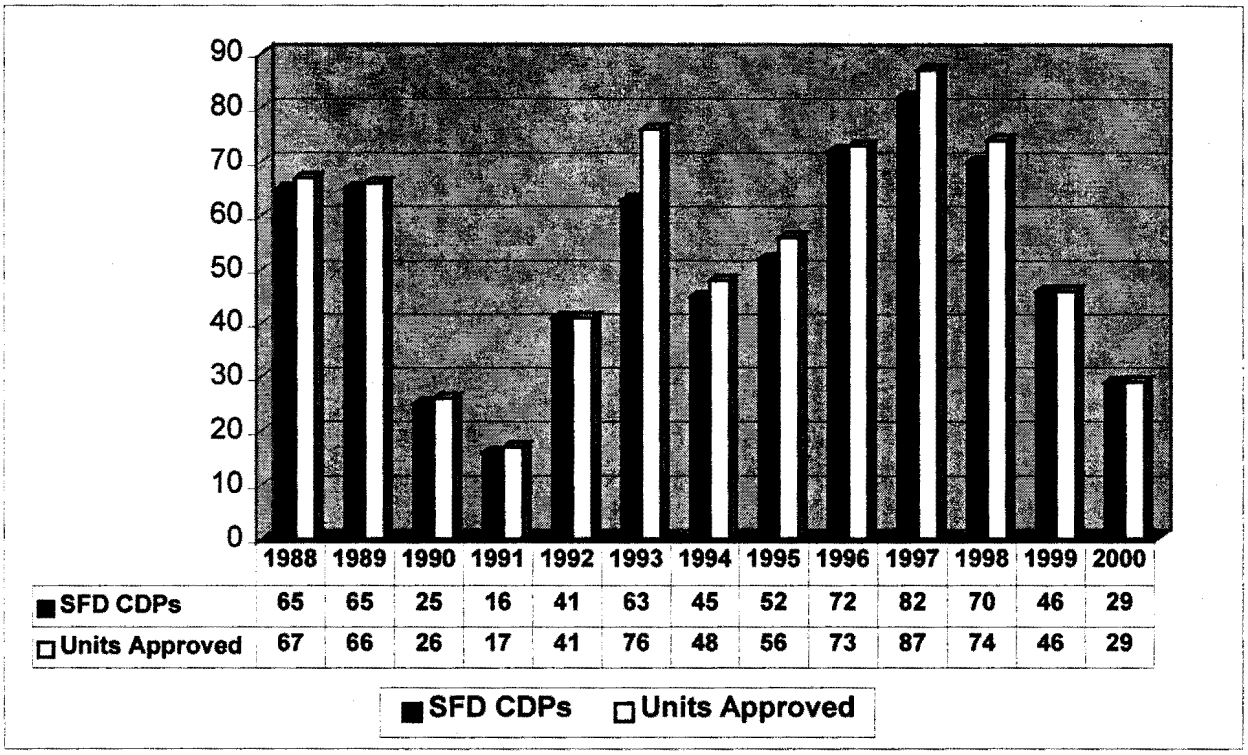
In addition to the Public Works Policies cited earlier, the County's LCP has a variety of mechanisms in place to address residential development and buildout. The North Coast Area Plan currently limits the maximum annual number of residential permits to 125, of which 30% must be reserved for multi-family residential.[24] The County has also been using its Growth Management ordinance, which is not part of the LCP, to allocate development approvals. As discussed earlier, this ordinance establishes a County-wide growth rate of 2.3% for new dwelling units, which are allocated across communities depending on the RMS evaluation of available

[23] 3-SLO-96-105 was a lot split of a parcel with an existing church and motel; 3-SLO-96-127 was to create a school site on the East-West Ranch; and 5-SLO-88-355 created 21 lots for existing former Air Force Housing.
[24] This standard originated from a coastal development permit for expansion of the Cambria wastewater treatment facility and an EPA condition to address future development potential.

resources. In the last year, the County reduced the allowable growth rate in Cambria to 1% in recognition of continuing limited water supplies (see below).

Since certification, the County has remained well under the 125 LCP limit for Cambria in any given year. Since 1988, a total of approximately 713 new units were reported approved through 2000 -- an average of almost 55 new residential units per year. As shown in Figure 2-7, though, until recently the trend of approvals showed a steady increase in approvals since a low of 17 in 1991. In the last year the Board of Supervisors put a 1% growth limitation in place.

Figure 2-7. Cambria SFD CDPs/Units Report Approved, 1988-2000



	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
SFD CDPs	65	65	25	16	41	63	45	52	72	82	70	46	29
Units Approved	67	66	26	17	41	76	48	56	73	87	74	46	29

As discussed later in this section, the continuing approval of new single family homes raises concerns about the availability of public services such as roads and water to support this development. The SLO LCP, though, does have several policies designed to work in conjunction with new residential development so as to reduce buildout potential. The most important of these is the framework of what constitutes a buildable parcel in those areas of Cambria subdivided into the 25'x70' foot lots (primarily Lodge Hill).

In conjunction with Ordinance 23.04.048, the North Coast Area Plan requires that adjacent 25'x70' lots (1750 sq. ft.) be consolidated into a minimum lot size of 3500 square feet or a "double lot" when they are in a single ownership. Three lots must also be consolidated into one (a "triple lot"), but four adjacent lots in a single ownership can create two developable lots. The NCAP also specifies limits on height, building footprint and gross structural area (GSA) for new homes in the Lodge Hill Area, which is where the majority of these substandard lots are located.

For a single lot, the maximum allowable GSA is 1000 square feet on an unconstrained lot. On forested lots or steep lots the GSA restriction may be as much as 600 square feet maximum. Overall, these policies are designed to discourage the development of the single 1750 square foot lot.

Data collected from reported CDPs shows that average lot size for single family homes approved in Cambria on less than one acre was 6320 square feet.[25] There were at least 38 approvals of residential development on lots less than 3500 square feet.

Reported CDP data also shows that the County's permit process has reduced the buildout potential in Cambria by 83 lots through the consolidation or voluntary merger of residential lots. With the addition of 18 units from the one significant subdivision in Cambria since 1988, though, the net lot reduction for all of Cambria would be 65 lots.[26] This equates to an average reduction of approximately 5.5 lots per year since certification. When compared to the approximately 8000 units of buildout potential, it is clear that the lot consolidation program has not generated a significant amount of lot reduction relative to the larger problem of buildout potential in Cambria.

The TDC Program

The LCP also has a Transfer of Development Credits (TDC) Program to address the problem of existing small lots (CZLUO §23.04.440). The objective of the TDC program is to reduce potential buildout in sensitive areas of Cambria/Lodge Hill identified as "Special Project Areas." The program allows the transfer of development credits within special project areas to more suitable sites within Lodge Hill.

In conjunction with the other building restrictions of the LCP, the TDC program provides an incentive to transfer building potential from sensitive lots (the sending site) to less sensitive lots (the receiving site). One TDC is equal to one square foot of building area. For example, a lot with 2500 square feet of building potential would generate 2500 TDCs. A sending site may have its development potential retired through recordation of a permanent conservation easement or other instrument over the lot. A site receiving TDCs may be developed with a larger dwelling than otherwise allowed under the LCP, as long as other building standards remain unchanged (height limitations, setbacks, parking requirements, etc.).

To effect these TDC transfers, the LCP requires a non-profit organization or public agency, approved by the Director of Planning and Building, to serve as the TDC broker. The Land Conservancy of San Luis Obispo County has administered the TDC program in Cambria on behalf of the county since the onset of the program in 1984. To date, it is the only organization that has sought Director approval to administer the program.

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[25] Of reported CDPs for Cambria, 427 out of 596 residential projects had lot size data. This data is not controlled for the Lodge Hill location.

[26] Reported data shows 34 CDPs involving lot reduction. A total of 138 existing lots were reduced to 55 lots.

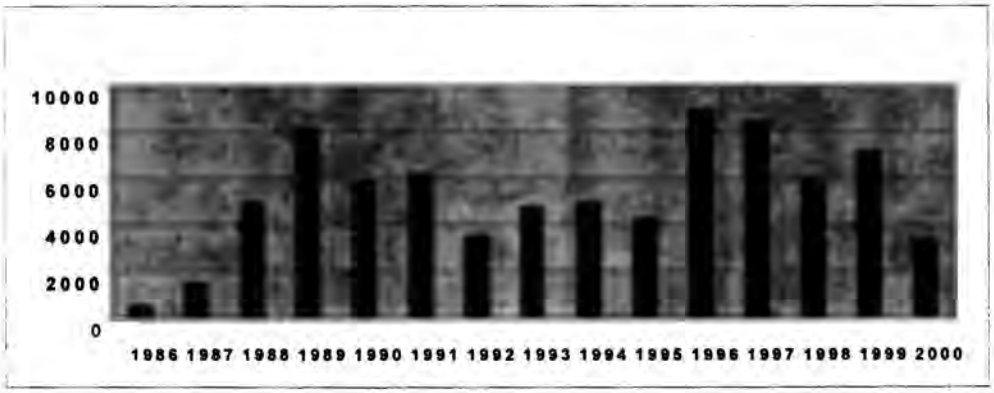
The Land Conservancy purchases lots in the sending area to retire through conservation easement, applies for TDCs from the County, sells TDCs to applicants, and provides a receipt of sale to the County.[27] The County uses this receipt as part of its permit process to approve building permits. The non-profit organization does not make decisions on whether a landowner is eligible to use TDCs or how many may be used for any one project; the County governs this process through the LCP.

TDC Implementation

As originally established by the Land Conservancy and through Coastal Conservancy grants, the primary purpose of the TDC program was to protect sensitive lots with Fern Canyon, with particularly focus on preserving contiguous lots of sensitive habitat. Overall, the TDC program has been successful in achieving this goal. Since the program's inception, the Land Conservancy has purchased over 125 lots encompassing over 250 separate small lots. Currently, the Land Conservancy holds in fee approximately 10 acres of land in the critical habitat at the bottom of Fern Canyon (Special Project Area #1; see Map 2-B). The Conservancy has purchased a variety of lots, and the average parcel size retired is just over 1750 square feet (1760), indicating that the TCD program also has been successful in targeting the substandard lot of Cambria. In conjunction with the County's general efforts to consolidate lots, this means that nearly 300 lots have been retired in Cambria. Although still not a significant amount relative to the 1,935 acres within the URL of Cambria, this lot retirement is significant in this sensitive area, which has extremely steep, forested slopes. Again, in terms of the Land Conservancy's goal of preserving contiguous habitat, the program has been successful.

The benefits of the TDC program for the problem of lot reduction, though, are small relative to the scale of the problem. There are also a number issues that should be addressed if the program is going to remain successful. The Land Conservancy has conducted over 317 TDC sales comprising over 79,000 individual TDCs. The Conservancy has more than 50,000 TDCs for sale in its current inventory. As shown in Figure 2-8, TDC sales picked up rapidly after program startup, and have remained strong through the 1990s.

Figure 2-8. TDCs Sold (Square Feet)



[27] The Land Conservancy of San Luis Obispo County sets the price of TDCs based on a 100% markup on the average cost per square foot, thereby allowing it to purchase two lots with the sale of one TDC lot. Currently the price is $15.00 per square foot.

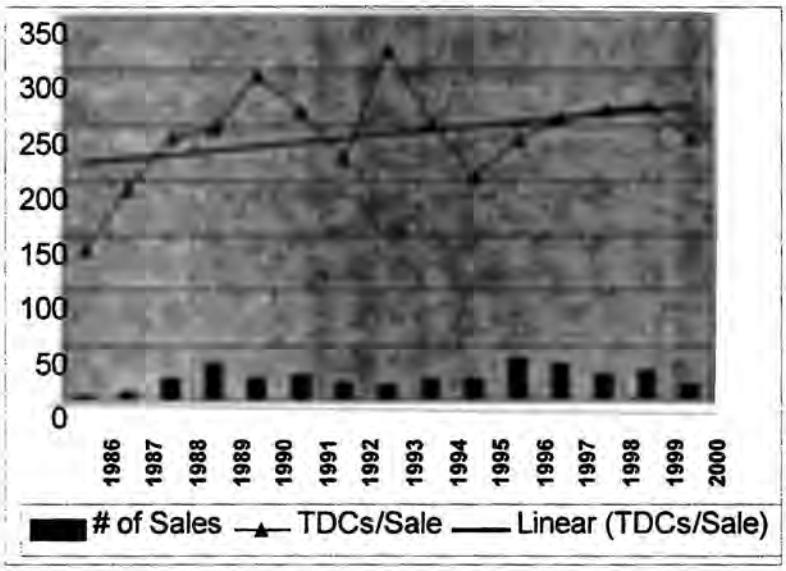
The Land Conservancy, though, has expressed concern that continued success of the program may depend on expansion into other areas of Cambria. While funds are available to purchase additional lots, this funding originally made available by the Coastal Conservancy is currently restricted to the purchase of lots within the Special Project Area #1 only; the Land Conservancy is having a difficult time finding sellers for the remaining sites within Fern Canyon.

Success of the TDC program is also dependent on the longterm preservation and management of the lots retired through the program. To date, the Land Conservancy has not been successful in transferring land title to any public agency. This places the burden of land maintenance on the non-profit, which impacts the ability of the agency to focus on land acquisition. Currently, the Land Conservancy is having discussions with Cambria Community Services District about transfer of title of the retired lots.

Another concern raised by the TDC program is the impact of TDCs on the sending site lots. The transfer of this building potential to other areas of Cambria raises concerns about the cumulative impacts of increased development in these receiving areas, including issues of community character and nonpoint source pollution control. As shown in Figure 2-9, the average TDC sale increased steadily in the initial years of the program. The average transfer since program inception is 250 square feet per property. This average shows a slight increase over time as well. The location of TDC receiving sites has been described as a shotgun pattern by the Land Conservancy (see Map 2-B), making it difficult to assess cumulative impacts. A community design review committee has been evaluating this problem recently, and there may be an opportunity to address this concern through submittal of a Design Plan for Cambria as an LCP amendment. The details of these issues are discussed in other sections of this report.[28] Inasmuch as the TDC program may be having unintended effects, it may be necessary to revise the allowable development standards downward for small lots in Cambria. This would have the dual effect of addressing potential impacts from larger development, and provide a greater incentive to use the TDC program and or consolidate more small lots.

[28] The TDC program allows the creation of homes larger than what would otherwise be allowed under the current land use category or planning area standards. Community concern has arisen regarding the visual impacts of these large houses and their detrimental impact on the character of the small-scale neighborhood. Another concern is the scale of development that should be allowed on any given property versus the property's ability to absorb and drain water. Although buildings that have used TDCs are distributed widely throughout Lodge Hill, there are a few areas where TDC use has been concentrated. The more concentrated the TDC use, the greater the impact may be on water absorption and erosion. Currently, however, the LCP contains no policy limiting the quantity of TDC use in any one area. It is becoming evident that hard scape on small lots is contributing to increased gully and sheet erosion throughout the Monterey Pine forest. This is especially true in natural drainage areas and on the marine terrace. TDCs may exacerbate erosion and increase velocity of runoff by curtailing absorption of water on the subject property and channeling it into areas that can neither handle the increased amounts nor the increased velocity of the water. Most construction practices evacuate water from the property to public streets. Many drainage culverts are installed without any velocity deflectors and have caused tons of soil to be eroded and carried into Santa Rosa Creek.

Figure 2-9. Average TDC Sales in Cambria



Other Programs

As part of its on-going North Coast Area Plan Update process, the County has evaluated various levels of lot retirement through establishment of an Open Space Assessment District to provide the funding to acquire lots. Four levels of lot retirement have been studied, including a 17%, 29%, 37% and 56% reduction in lots. The current submittal of the NCAP includes a program calling for such a district and targeting Alternative III, which has a goal of 7,421 dwelling units at buildout (NCAP pp. 6-17). This would represent a reduction of 4,280 units from current buildout of 11,701. An economic analysis of various alternatives has concluded that this reduction would have the lowest total costs for the community.[29]

Cambria Water Supply

Like San Simeon Acres, Cambria relies on local creeks for water supply: San Simeon and Santa Rosa. These streams are small and have limited storage basins. The water supply is extremely vulnerable to drought, as well as prone to occurrences of seawater intrusion caused by ground-water overdraft. The town often experiences periods of water shortage toward the end of the dry season.

The Coastal Commission has been concerned with the lack of water to support new development since the adoption of the Coastal Act. As early as 1977, in a coastal permit to allow the Cambria Community Services District (CCSD) to begin drawing water from San Simeon Creek, the Commission expressed concern about overdrafting this groundwater basin. In that permit, the Commission limited the urban service areas for this new water supply and identified the

[29] NCAP Fiscal Analysis of Plan Alternatives, May 1997.

maximum number of dwelling units that could be served as 3800[30]. When the Land Use Plan of the County's LCP was certified in 1983, the concern remained that there was inadequate water to serve existing parcels within Cambria.

Most recently, the Commission evaluated available water supply for Cambria in its review of the County's North Coast Area Plan update. After evaluating the availability of water in San Simeon and Santa Rosa Creek, the Coastal Commission adopted findings and a suggested modification that would require completion of three performance standards prior to January 1, 2001: completion of an instream flow management study for Santa Rosa and San Simeon Creek; completion of a water management strategy which includes water conservation, reuse of wastewater, alternative water supply, and potential off stream impoundments; and cooperation of the County and CCSD to place a lot reduction ballot measure before the Cambria electorate. If these standards were not performed by January 1, 2001, the modification required a moratorium on further withdrawals from San Simeon and Santa Rosa Creeks.

Although the County never accepted the modified amendment and is therefore not subject to the moratorium provision, the severity of the measures proposed reflects the gravity of the community's future if development continues to be permitted at its existing rate. More important, since the 1998 Commission action, the water supply situation has been further constrained by MTBE contamination.

Implementation

As summarized earlier, the RMS system has recommended a LOS II or III for Cambria's water supply almost since LCP certification. Since 1990, the RMS has also recommended various conservation measures, including consideration of a moratorium on development. In recognition of the LOS III for 1999, the Board of Supervisors reduced the allowable growth rate in Cambria to 1% or approximately 37 units/year.

The Cambria Community Services District (CCSD) has a permit from the State Water Resources Control Board (WRB) to extract a total of 1,230 acre-feet per year (afy) from San Simeon Creek, but there are more specific limitations on withdrawals during the summer season.[31] In order to alleviate the water crisis in Cambria, the CCSD has implemented an off-site retrofit program since 1990. The retrofit program requires new units to be constructed with low water use fixtures and provide low water-use plumbing fixtures in existing dwellings. Under this program over 500 hookups were added to the CCSD system and over 2,500 existing homes were retrofitted with low water use fixtures. While the retrofit program has been somewhat successful in reducing per capita demand, it has been less effective than originally envisioned, because it allows the payment of an "in-lieu" fee rather than an actual retrofit of older existing development; and because it was not designed to reduce the amount of water used to irrigate residential landscapes.

[30] Application 132-18.

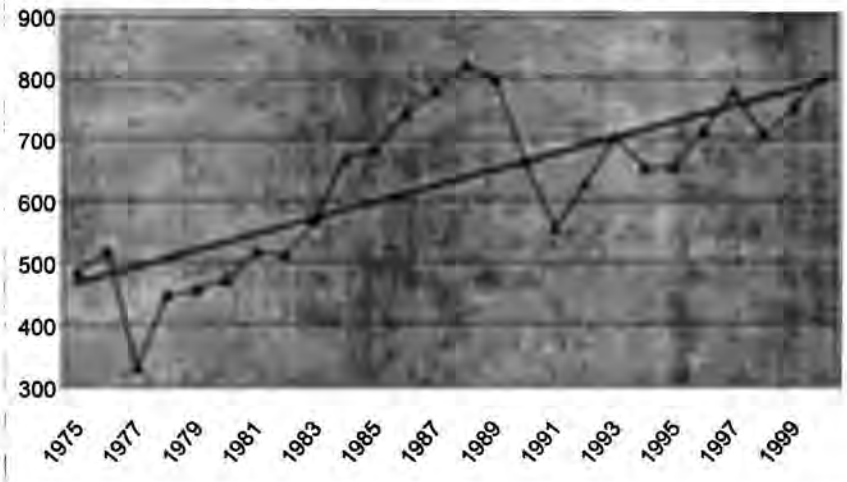
[31] The WRB permit allows withdrawal of 1,230 afy from San Simeon Creek with the stipulation that only 350 afy may be withdrawn when streamflow ceases at the Palmer Flats Gauging Station until October 31st of each year. The CCSD may withdraw 518 afy from Santa Rosa Creek, with the safeguard that withdrawal from May 1st through October 31st is not to exceed 260 afy.

Additionally, the program provides no long-term solutions for the continued disparity between water sources and ultimate buildout because the existing development available for retro-fits will be exhausted long before buildout.

The CCSD also sponsors an agricultural retrofit program, through which agricultural water users are provided with drip irrigation systems and lower capacity water pumps. Because these systems use water more efficiently, some water is conserved, which then becomes available to the community. For example, in 1993, 99 acres of sugar peas were converted to drip irrigation under the agricultural retrofit program for an estimated water saving of 30 afy. Another program provides reclaimed water in exchange for potable water. Water savings from such conservation measures, however, are difficult to estimate with a high degree of accuracy. In addition, if more agricultural land is brought into production, or if crop changes intensify water use, these savings may disappear. One way to better assess this would be to establish basin wide water monitoring of all withdrawals.

Over the years, the CCSD has investigated various potential additional water supplies, including importing water from Nacimiento Reservoir, building dams on coastal streams in the Cambria vicinity, and utilizing groundwater recharge. All of these were rejected, due to environmental, financial, or engineering concerns. In 1993, the district began investigating the possibility of desalination of seawater. The CCSD applied for a permit (FLAN 3-SLO-95-037) in 1995 to construct a desalinization plant, which would supply 1129 afy water at full capacity. Although the County approved the permit as well as a subsequent permit for the construction of connecting pipe to San Simeon, to date the plant has not yet been built. The CCSD is still pursuing the desalination plant and has recently received grant funding toward that end.

Fig. 2-10 CCSD Water Production (AF)



In addition, the CCSD has been aggressively pursuing other water conservation measures, including requiring onsite cisterns for larger residential developments. Most recently, the CSD funded and completed a Baseline Water Supply Analysis that concludes that the District's water supply is marginal to inadequate to provide 90% reliability (in one of ten years there may not be enough water for current customers). In addition, if the recent discovery of MTBE in

groundwater near the District's Santa Rosa wells prevents use of this source, the report concludes that the District's supplies are inadequate.[32]

Notwithstanding the efforts being made by the CSD, water production in Cambria continues to increase. As shown in Figure 2-10, while the rate of increase since 1990 is not as great as previous years, water withdrawals from San Simeon and Santa Rosa Creeks nonetheless are still climbing. The County projects the need for more than a doubling of current water production (approx. 1500 AFY) in Cambria by 2020 (3-24 NCAP). [33]

As mentioned, the RMS system has consistently identified water supply as a serious concern in Cambria. In 1990, the Report recommended that the Board of Supervisors (BOS) consider a development moratorium. However, the BOS has never certified any LOS for Cambria. Most recently, RMS again recommends an LOS III. It also, though, presents three major options for action: maintaining a 1% growth rate; resuming the 2.3% rate; or adopting a 0% growth rate. Although the BOS still did not certify the LOS III, it did adopt the 1% option in December of 2000 for the time being.

Roads

Road capacity is another strained resource in Cambria. Main Street Cambria, from Cambria Drive to Burton Drive, essentially has been at LOS III since 1990. Although dropped from the list in 1994, due to a reduction in traffic growth compared to previous years, Main Street was once again added at a LOS III the following year. Aside from a brief drop to a LOS I in 1997, Main Street Cambria has remained at a LOS III alert. In 1998, an improvement project began, which included widening to three lanes with a bike lane on each side. Nevertheless, at buildout, the RMS predicts that unacceptable levels of service will exist. Similar to water supply, the RMS system has functioned as an effective monitoring mechanism for road capacity in Cambria. However, it does not appear to have been implemented as envisioned in the certified LCP. For example, since no LOS for roads has been certified by the Board of Supervisors, it is possible that approved development may overrun road capacity.[34]

CAYUCOS

The Cayucos urban area—totaling some 321 acres—lies on a coastal terrace closely bordered by steep hillsides on the north and east, and the Pacific Ocean on the west. Due to its geographic location, both the URL and USL are drawn fairly tightly around the community. There is no room for expansion outside the URL and no major blocks of vacant land are available for

[32] As of this writing, an emergency well was being installed upstream of the contamination point to alleviate this situation.

[33] Taking into account the Cambria Area Plan Standard established by the Coastal Commission requiring 20% of water supply to be reserved for priority uses (e.g. non-residential), the County has estimated that the CCSD could serve a total of 4,120 dwelling units with its current water supply—only 35% of total buildout (NCAP 3-26).

[34] A good example of how Board certification matters in the planning process occurred with the Vadnais subdivision, which would add 25 condominiums on Main Street. At the time of approval of this subdivision, Main Street was operating at LOS III. However, mandatory action to eliminate this level of severity was not required because, as summarized by a staff memorandum for the project: "... as long as it [the RMS LOS III] remains a 'recommended' level of severity, no prohibition of additional traffic impacts is required" (FLAN 3-SLO-96-056).

subdivision within the URL. Currently, approximately 4,734 people live in Cayucos. This is more than double the population at the time of LCP certification. The Estero Area Plan Update reports Cayucos' potential buildout population to be 6,078, an approximate 28% growth over the current population.

Cayucos is the only community that has a County Board certified level of severity for a resource

TABLE 2-14. RMS REPORTED LEVELS OF SERVICE FOR CAYUCOS

other than air quality-- a certified LOS II for water supply.[35] Between 1988 and 1998, the County has approved a substantial amount of development within Cayucos, including 14 commercial projects and 92 residential projects creating a net total of 117 new units. Only one subdivision was approved creating only one additional lot. As shown in the Table below, new residential activity was limited while Cayucos was under a water moratorium. Significant numbers of new homes, though, began to be approved after the moratorium was lifted in 1993.

Table 2-15. Cayucos Development Types, 1988-1998

DEVELOPMENT TYPE	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	TOTALS
Commercial	8	1	1	1				1	1	2	2	14
Condo Conversion		2	1		1							4
Grading						1	2	1			2	6
Hotel/Motel Expansion						1				1		2
Lot Merger	1		3								1	5
Lot-line Adjustment		1			1	1			1	2		6
MFD Expansion						1						1
New Hotel/Motel	1						4			1	2	8
New MFD								1	1		1	3
New SFD	3	4	2			4	9	25	10	17	19	93
Other								1		1		2
Public Recreation Facility	1		1									2
Public Works		1	1					1			1	4
SFD Expansion	14	10	26	10	17	7	8	12	6	6	6	122
Shoreline/Bluff Protection	1	3	5		3	3	2	3	5	2	2	29
Stream / River Alteration											1	1
Subdivision	1											1
Tree Removal				1		4						5
Water Well		1		1			1	1			1	5
TOTALS	30	23	40	13	22	22	26	46	24	32	38	316

[35] The Board of Supervisors has certified LOS II for air quality in all communities. This review, however, is not analyzing air quality issues.

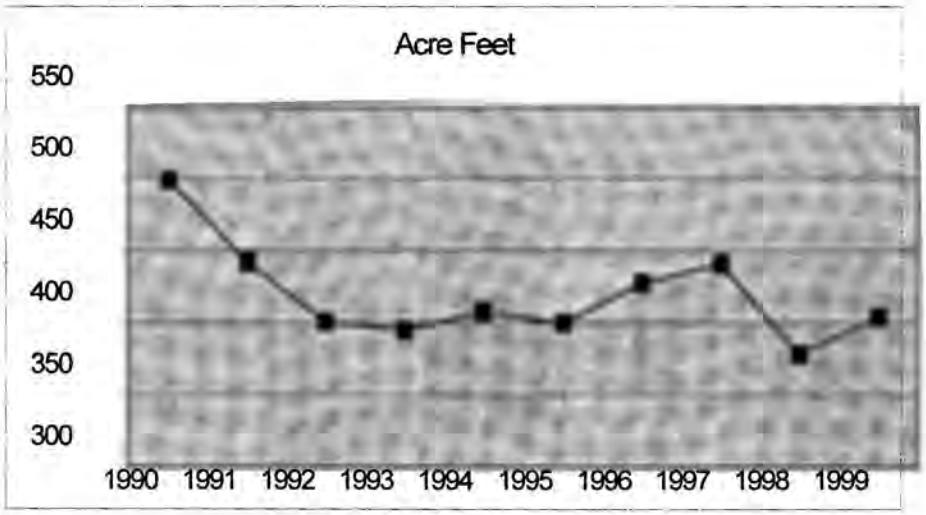
Cayucos receives all of its water from the Whale Rock Reservoir. The community's three local purveyors—Morro Rock Mutual Water Company (MRM), Paso Robles Beach Water Company (PRB) and County Service Area #10-A (CSA 10A)—have cooperated to form the Cayucos Area Water Organization (CAWO). The CAWO, along with the Cayucos Cemetery District, has a 600 acre-feet per year entitlement from Whale Rock Reservoir.[36]

In 1985, the Board of Supervisors imposed a building moratorium on the community because water use had reached its available supply. This continuing moratorium led to a Board certified LOS III in 1990, the first year of the RMS system. Subsequent metering, line replacement and water conservation have substantially reduced water use and have kept Cayucos within its allocation, even after the Board lifted the moratorium in 1993. The Estero Area Plan Update reports that total water production for the community has been in the 400 afy range since 1992.

The 1996 CAWO Water Management Plan revealed that CSA #10A had issued will-serves which over-allocated its 190-afy entitlement. To enable the CSA to continue issuing will-serve letters, a plumbing-fixture retrofit program has been adopted which requires the provision of ultra low-flow fixtures in existing structures as a condition of receiving a will-serve letter for new construction. Fifteen applicants have received conditional will-serves under this program.

The Cayucos Area Water Organization projects total demand for existing Cayucos users, including an adjustment for outstanding will-serves and a 10% cushion for water planning purposes, to amount to 589 afy. PRB and MRM have supply available for additional will-serves within their Whale Rock entitlements; CSA 10A does not. CSA 10A is, however, in the final year of a program to replace water mains. This program should result in a reduction in the amount of water lost through leakage in the distribution system.

Figure 2-11. Cayucos Water Production



[36] The Cemetery District has a water allotment of 18 afy, leaving 582 afy for residential, commercial and recreational uses.

CSA 10A and Morro Rock View Mutual Water Company are actively pursing supplemental water through the Lake Nacimiento water project to enable the community to support adopted General Plan land uses (i.e. buildout population). The total supplemental water request is for 124 afy.

Cayucos does not have a recommended LOS for its sewage system. Wastewater generated in Cayucos is collected in a conventional underground sewer system and conveyed to the Morro Bay treatment plant. Through a joint powers agreement between the city and the Cayucos Sanitary District, Cayucos is entitled to the use of 40 percent of the treatment plant's capacity. The North Coast Area Plan Update estimates future wastewater flow for Cayucos to be approximately 0.376 million gallons per day (mgd).[37] This flow estimate is within the community's current entitlement to capacity of the Morro Bay treatment plant, and no additions to the plant would be necessary to serve Cayucos' buildout population. Expansion of the plant will be necessary, however, to handle the increasing flow from the city of Morro Bay.

In February 1999, the County submitted a Public Hearing Draft of the Estero Planning Area Update to the Coastal Commission for review. Updates of the Area Plans are a critical means to redirect future development in order to bring it into line with current and projected levels of public services. Specifically for Cayucos, redirection in future planning could satisfy the policy changes required in the Resource Management System for having a certified Level of Severity II for water supply. Initially, though, the Estero Area Plan Update did not directly address the problem that the currently planned buildout of Cayucos will exceed available supplies. It also did not provide specific discussion of the process of obtaining Lake Nacimiento water, or the fact that even with this supplemental water supply, Cayucos would still have a shortfall of 57 acres feet per year under buildout.[38]

A recent response to Commission staff from the Advisory Council of Cayucos has proposed a phased approach for approving new development in Cayucos (see Appendix E). These are important issues that must be recognized and addressed by the Area Plan. Measures to reduce buildout to a level that can be sustained by available water supplies must be provided so that new development expectations do not overreach available resources.

Los Osos

The Los Osos urban area, encompassing approximately 2,590 acres, consists of several loose-knit neighborhoods, including Los Osos, Baywood Park and Cuesta-by-the-Sea (see Map 2-C). At the time of certification, the County estimated Los Osos' population to be 10,381. Current County estimates place existing population at 15,189 and full buildout potential at 17,836.[39] Similar to Cambria, there are many hundreds of small vacant lots remaining in Los Osos – an artifact of the original subdivision of the area in the late 1800s.

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[37] This estimate is based on the assumption of 67 percent dwelling unit occupancy and 0.566 mgd at 100 percent occupancy.
[38] CCC Comments of Estero Area Update and DEIR findings, assuming 89 percent occupancy rate for existing units and 95% for new units (current occupancy rates are estimated to be 64%).
[39] This estimate assumes full occupancy rates.

TABLE 2-16. RMS REPORTED LEVELS OF SERVICE FOR LOS OSOS

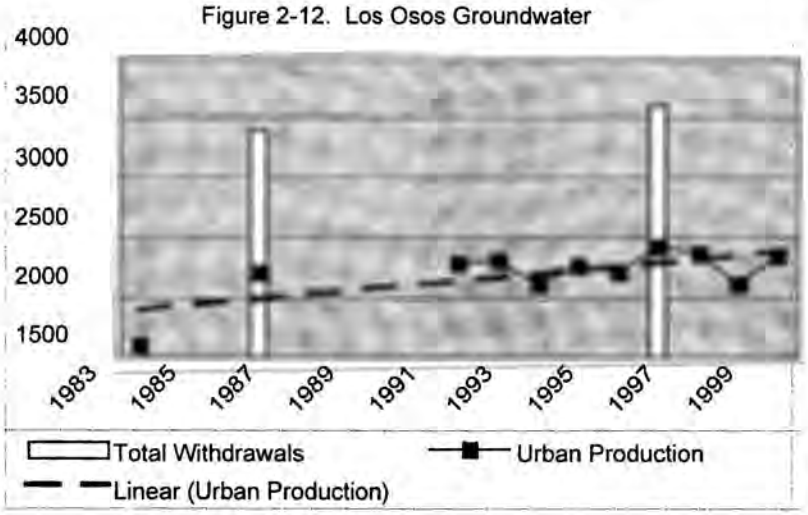
	90	91	92	93	94	95	96	97	98	99	00
Water Supply	2	3	2	2	2	2	2	2	2	2	2
Water Distribution	3	3	2	2	2	2	2	2	2	2	2
Sewer Capacity	0	3	3	3	3	3	3	3	3	3	3
Roads	3	3	3	3	3	3	3	3	3	3	3
Schools	2	2	3	3	1	3	2	3	3	3	2

From groundwater contamination to over-draft and seawater intrusion, the groundwater basin serving Los Osos has been strained for decades. Due to water quality degradation of the Bay and the groundwater basin from septic disposal, the Regional Water Quality Control Board (RWQCB) imposed a septic tank discharge moratorium in January 1988. The RWQCB established a prohibition zone—which comprises most of the USL (see Map 2-C)—within which new residential construction or major expansions of existing buildings has been effectively halted until the County provides a solution to the water degradation problem.[40]

Water Supply

Since its inception, the Resource Management System has recommended a LOS of either II or III for water supply and distribution in Los Osos; again, the Board of Supervisors has not certified the recommendations. There is considerable uncertainty as to the available water supply for the community. Currently, water is drawn from the Los Osos groundwater basin by three water purveyors: the Los Osos Community Services District, California Cities Water Company, and the S&T Mutual Water Company. When the Estero Area Plan of the LCP was certified in 1988, the best estimate of the safe yield of this basin ranged from 1,300 to 1,800 acre-feet per year. At that time, net urban water demand had already exceeded the low end of this range, with estimated urban use at approximately 1600 afy. It was estimated that the 1800 afy figure would be exceeded at a population of 12,600 – well below the current population of 15,189.

Figure 2-12. Los Osos Groundwater



In recognition of the limited water supply for Los Osos, the Commission in 1983 recommended that the 1800 afy figure be established as the safe yield for the Los Osos groundwater basin until such time as a detailed hydrologic budget analysis could be completed for the entire basin.[41] The certified Estero Area Plan also included an Interim Resource Management Program to be applied to new

[40] In May 1999, the RWQCB adopted revisions to previously approved guidelines that allows a limited amount of new development in the prohibition area.

[41] Coastal Commission Adopted Revised Findings for the San Luis Obispo County Land Use Plan, October 23, 1983, p.56-7.

development applications. Under this program, the County Planning Department was to provide the Board of Supervisors and Planning Commission with a semi-annual report on water projected urban growth. Pending development applications were to be categorized as coastal priority and non-priority uses. The BOS was then to make findings as to whether development of priority uses (e.g. visitor-serving, agriculture, and urban infill) would be affected by non-priority development. Most important, if the Board found that proposed development would result in water demand approaching 1800 afy for the Los Osos Basin, or that proposed priority uses would be affected by water restrictions, all development applications were to be elevated to a higher level of review, with preferences given to priority uses (Estero Area Plan 6-25).

These programmatic requirements were further implemented through standards that established priorities for new development drawing water from the Los Osos basin until a Resource Capacity Study was completed through the RMS process. These standards included reserving 800 afy for agricultural uses, and serving existing urban infill lots prior to new lots or lots outside of the urban core. Consistent with general LPC policies, new land divisions would only be permitted if new water sources were identified.

In 1989, the Department of Water Resources completed a study of the Los Osos Basin that revised the safe yield upward to approximately 2,200 afy. However, because withdrawals from the basin in 1986 were about 3,400 afy, the DWR concluded the basin was in overdraft. Based on this information, the RMS for 1991 recommended an LOS III for Los Osos. Well data also indicated potential seawater intrusion, possibly aggravated by the fact that some wells were located close to the coast. The RMS also recommended an LOS III for water distribution, as well as a moratorium on building permits for new development that would rely on groundwater extractions from the Los Osos basin.

As required by the RMS, the County conducted a Resource Capacity Study for Los Osos. After public hearings in 1992, the Board of Supervisors concluded that there was insufficient information in the previous USGS and DWR studies to conclude that the groundwater basin was in overdraft or that seawater intrusion was occurring. The planning staff was directed to revise the findings of the Capacity Study accordingly. RMS levels were moved back to LOS II. The three water purveyors for Los Osos initiated discussions about joint studies and action to respond to the water issues. In addition to new studies, the providers continued to participate in an on-going project to import 600 afy of water to Los Osos from the Naciemento Reservoir.

More recently debate has continued about the safe yield of the Los Osos groundwater basin, particularly in relation to on-going efforts to develop a wastewater treatment plant for the community that would also serve a groundwater recharge function. In August of 2000, the newly formed Los Osos CSD published a baseline report for the basin that concluded that inflows and outflows to the basin were roughly equal. Specific conclusions about the safe yield of the basin, though, await further analysis concerning the proposed wastewater treatment plant and how recharge from this project would affect groundwater levels. This study is anticipated later this year.

As shown in Figure 2-12, water production in Los Osos has steadily increased since the early 1980s when the Commission first reviewed the Land Use Plan for the community. Current urban

demand remains at or above the 2200 afy sustainable yield figure determined by DWR in 1989. Moreover, total water demand from the basin (including agricultural withdrawals) has been placed at well over this safe yield figure, both in the mid-1980s and as recently as 1996.

Wastewater Treatment Capacity

Wastewater treatment capacity has been an issue in Los Osos since at least 1971. There are many substandard lots using septic systems in Los Osos, which has raised concern both about contamination of the groundwater basin, and pollution of Morro Bay, including public health and ecosystem impacts. Because of this concern, a portion of the community has been under septic discharge prohibition from the Regional Water Quality Control Board since 1988. This moratorium on new discharges has remained in place as the County and the community have been working on the development of a community-wide sewer system. In 1998, the community voted to form a Services District, which took over responsibility for developing such a system from the County. Most recently, the CSD released a draft Environmental Impact Report for a new system. The Commission staff recently provided comments on this DEIR (see Appendix E).

Los Osos Development Trends, 1988-98.

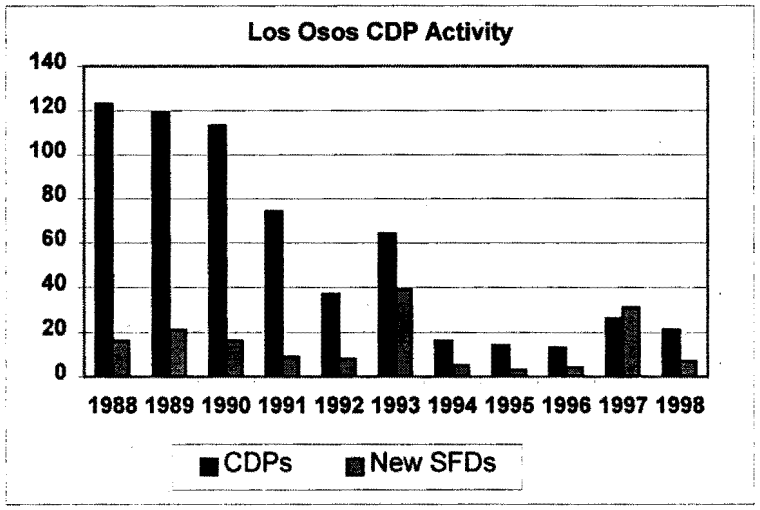
Although Los Osos has been under significant water and sewer capacity constraints, the County has still approved significant amounts of new development. As shown in Table 2-17, between 1988-1998, the County reported approximately 617 coastal development permits for Los Osos. Although more than half of these were some type of residential improvement or expansion, they also included 95 permits for 159 new single family homes, as well as 9 residential subdivisions. Four of these subdivisions were quite large, authorizing a total of 319 new residential lots in and around Los Osos. Due in part to the RWQCB moratorium on septic discharges, new residential and subdivision development has occurred outside the prohibition area. Yet most of this development relies on municipally supplied water from the highly constrained groundwater basin.

Table 2-17. Development Trends in Los Osos

Primary Development Type	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	TOTALS
Commercial	30	9	1	1	1	3	1		1	3		50
Condo Conversion	5	1										6
Grading /Filling of Material	1			1	1						1	4
Industrial / Energy			1	1		1					1	4
Institution / Military	1		2	1	1			1	1	4		11
Lot-line Adjustment/Merger	1	2	3	2	1			1		1		11
New/Expanded Hotel/Motel	1	1					1				1	4
New SFD	14	18	16	9	7	5	5	4	4	7	6	95
Public Works		1	1			2	1	1	1	1	1	9
SFD Expansion	61	82	79	52	16	47	8	4	4	6	9	368
Shoreline/Bluff Protection	1	2	1									4
Stream / River Alteration		1			1							2
Subdivision	1		1		1	2			2	1	1	9
Water Well	3		3	3	4							13
Other	4	2	4	4	4	4		3		1	1	27
TOTALS	123	119	112	74	37	64	16	13	13	24	21	617

A closer examination of development activity in Los Osos, though, also indicates the relatively constrained growth in the community. Except for two major approvals of new homes in two large subdivisions (35 in 1993 and 24 in 1997, new residential development has been minimal through the 1990s. It should be noted that the drop in reported permit activity for Los Osos shown in Figure 2-13 is probably related to the lack of reporting of non-appealable permit decisions. Thus, the significant drop in activity shown in 1994 is driven by a drop in residential improvement projects, which typically receive a lower level of review.

Figure 2-13. Los Osos CDPs



Analysis

As discussed earlier in this chapter, the County has approved a number of subdivisions outside of the Urban Services Line of Los Osos, including the major subdivisions of Cabrillo Associates (3-SLO-98-138) and Monarch Grove (3-SLO-93-083). In addition to the questions these actions raise about concentrating development (see Issue 1 discussion), these subdivisions raise basic concerns with the Coastal Act and LCP requirements to limit new development to areas able to accommodate it.

The Monarch Grove subdivision was approved with a private mini-wastewater treatment plant onsite and water service from Cal Cities. While the use of a private wastewater treatment plant meets the letter of the requirement for development outside the USL to have onsite treatment, it does not comport with the typical application of Coastal Act section 30250, which requires public service capacities for urban development. The Monarch Grove subdivision, now mostly built, is a classical suburban residential tract at urban densities, but served by a private package plant. The problematic nature of this approval is captured in one of the County conditions for the subdivision which required the "community sewage system" to be designed and operated according to County, State, and Federal requirements but that ultimately relied on the Homeowner's association for maintaining the plant in the event of complications. The condition

indicates that the County engineering department would not support County-wide taxpayer support for the facility in such circumstances.

Two other major subdivisions were approved within the USL since certification of the LCP. In 1990, the Holland subdivision of a 20 acre parcel into 100 residential sites was approved as a matter of law due to the failure of the County to act within the time constraints of the Permit Streamlining Act. Although this project was appealed, the Commission failed to obtain jurisdiction over the project when the appellants withdrew their appeal shortly before the hearing. At the time of this "approval" the RMS was indicating that Los Osos was at an LOS III for water distribution. It also was under severe wastewater treatment capacity constraints. Although this RMS conclusion was not certified by the Board of Supervisors, the LCP would not allow such development unless a finding was made that there was "sufficient services to serve the proposed development" given the outstanding commitment to existing lots within the USL. Although the Holland subdivision has not been constructed yet, the County never adopted adequate findings of water and sewer capacity for this new residential development potential as required by the LCP. It should be noted also that the County recently extended the permit for this subdivision, now ten years old, despite the on-going resource capacity issues in Los Osos.[42] The Commission contested the extension and amendment but was legally challenged and recently lost the case.

In the case of the Morro Shores subdivision, which created 95 residential lots on 54 acres in the middle of Los Osos, the County adopted legal findings that, similar to the Monarch Grove project, allowed the project to rely on an onsite private wastewater plant. The Board of Supervisors found that such reliance would provide for interim sewer treatment until a community-wide system was in place. As for water supply, the Board required the developer to "ensure that potable water source other than the deep aquifer of the Los Osos Groundwater Basin be found" if the interim package plant option was pursued. Thus, no firm source of water was in place at the time of approval, inconsistent with Public Works Policy 1, which requires sufficient services to serve proposed development prior to permitting new development. The Commission did not appeal the County's action.

The County has also approved a few projects with a condition that itself concluded the future community wastewater system will resolve current water supply limitations and that therefore the uncertainty about water supply in Los Osos was not a serious concern.[43] Although the planned wastewater treatment facility does include a groundwater injection component, the ability of the yet-to-be-constructed wastewater treatment system to effectively address the area's water supply needs will be subject to future analyses and a demonstrated ability to effectively recharge the groundwater basin.

Permit approval based on future availability of resources is inconsistent with §23.04.021(c) of the CZLUO. This section requires that in communities with limited water or sewage disposal service capacity as defined by Resource Management System alert level II or III, new land

[42] This extension decision was appealed to and denied by the Commission. However, the Commission's decision has not been upheld by the Courts.
[43] E.g. FLAN 5-SLO-97-072

divisions shall not be approved within the urban services line, "unless the approval body first finds that sufficient water and sewage disposal capacities are available to accommodate both existing development and development that would be allowed on presently vacant parcels." Los Osos has consistently been at LOS II or III according to the RMS system analysis.

AVILA BEACH

Avila Beach is a small community located on San Luis Bay. The town is a small seaside recreation/tourist area and has one of the most popular beaches in the County. The town, known for its "eclectic beach funk," has been host to oil shipments for much of the past century.

The community is currently undergoing the final stages of the massive clean-up to excavate 100,000 cubic yards of sand and soil contaminated by petroleum that leaked for years from underground pipes leading to Unocal's pier.[44] Avila Beach reached a settlement that called for Unocal to excavate the oil beneath the town and beach, pay $12 million dollars toward restoration projects, and perform other enhancement projects, including the implementation of the Front Street Enhancement Plan. The massive cleanup, which began in November 1998, demolished approximately 20 percent of the town.

On November of 2000, the Coastal Commission effectively certified Major Amendment No. 2-00, which incorporates the Avila Beach Specific Plan into the LCP. The Specific Plan is designed to guide the redevelopment of Avila upon completion of the Unocal cleanup.

TABLE 2-18. RMS REPORTED LEVELS OF SERVICE FOR AVILA BEACH

Water Supply	3	3	3	3	2	2	2	2	0	0
Water Distribution	0	0	0	0	2	2	2	2	0	0
Sewer Capacity	2	2	2	2	0	0	0	0	0	0
Roads	3	3	3	3	0	0	1	1	1	1

The Specific Plan estimates that the pre-amended LCP would have allowed for the build-out of approximately 667 units in Avila Beach, equating to a population of 1,094. (The town had a pre-remediation population of 395.) The Specific Plan alters the buildout potential by increasing the area designated for multi-family residential development, and decreasing the development potential in visually sensitive areas (e.g., near the oak woodlands along Avila Drive). The net result of these changes is estimated by the Specific Plan to result in a buildout potential of 657 housing units, and a population of 1,077.

In terms of infrastructure, the Avila Beach Community Services District (CSD) provides the community of Avila Beach with domestic water obtained from Lopez Reservoir and the State Water Project.[45] In April 1993, the water district's Board of Directors lifted a 16-year moratorium on the issuance of will-serves letters. Initially placed due to uncertainty on the limits of Avila Beach's dependable water supply, the 1987-92 drought provided information about the

[44] Unocal stopped using the pier in 1996.
[45] In 1996, the Avila Beach Community Water District was reorganized as the Avila Beach Community Services District.

reliability of Lopez Reservoir as a source of supply. The district has a 68-afy entitlement from Lopez Reservoir and began purchasing 108 afy from the State Water Project (SWP) in 1996. The State Water allocation, along with the existing allocation from the Lopez Reservoir, is expected to be sufficient for 820 total dwelling units, which exceed the estimated buildout of 657 units, and should be adequate to serve the potential visitor-serving development as well.

The Avila Beach CSD also provides sewer service to the community through the Avila Beach Treatment Plant. The facility has a capacity of 200,000 gallons per day and discharges the treated effluent into San Luis Bay via ocean outfall. The plant's capacity is estimated to support 1,435 people, and is expected to be adequate to serve both residential and commercial development until about the year 2010.

Five years of moratorium and one year of Unocal remediation have significantly affected the levels of new development that have been approved and constructed in Avila Beach since the time of LCP certification. Minimal commercial and residential development has been approved within Avila Beach. The most significant development approved has been two major residential subdivisions in Avila Valley, only portions of which are in the coastal zone.

SOUTH COUNTY

The South County Planning Area encompasses approximately 98,910 acres and is almost entirely rural. A small portion of Callender-Garrett, a loosely knit community, falls within the Coastal Zone. At the time of LCP certification South County had an approximate population of 4,630, and an estimated buildout population of 9,842. Aside from a small area of Callender-Garrett that falls within the coastal zone, South County is not residentially zoned.

The entire South County Planning Area uses subsurface systems for sewage disposal. The Area Plan reports that as long as densities do not become too great, these systems should continue to be adequate to meet the needs of South County. The Planning Area draws its water supply from two sub-units of Santa Maria groundwater basin that underlie the planning area: the Arroyo Grande Tri-Cities Mesa and the Nipomo Mesa. The Nipomo Mesa area's major source of recharge is deep percolation of precipitation and is therefore vulnerable to protracted dry periods. The 2000 RMS projects future water needs for the Nipomo Mesa study area will exceed inflow by amounts increasing from 700 afy (base period, 1995) to 2,000 afy in 2020. The projected increase in urban extractions is the major factor contributing to the projected future deficiencies. Although the urban areas fall outside the coastal zone, they will affect the groundwater basin and water resources within the rural portions of the South County Planning Area. The Tri-Cities and Nipomo Mesas have a recommended level of severity II under the RMS.

New development in the South County Planning Area since LCP certification has been relatively minimal. The County approved a total of nine commercial permits and twelve residential projects, all located in Callender-Garrett.

General Conclusions

In implementing the LCP Public Works policies the County has not followed the requirements to allow development only in areas able to accommodate it. Although an effort has been made to require a showing of water or sewer prior to final recordation of a parcel map or issuance of a building map, these type of conditions do not address the more fundamental uncertainties surrounding the basic resource capacities. These "premature" approvals create development expectations that cannot be reversed and that ultimately lead to resource impacts such as overdrafting a groundwater basin. In some cases, such as Cambria and Los Osos, the groundwater basins may already be in overdraft.

Additionally, by prematurely approving development projects without the current availability of resources to support them, the County is, in effect, reserving future capacity of water and sewage for non-priority uses that otherwise may be needed to accommodate priority uses. Public Works Policy 8 of the General Plan requires that, "Where existing or planned public works facilities can accommodate only a limited amount of new development, [coastal-dependent uses and essential public services and basic industries vital to the economic health of the region] shall have priority for services in accordance with the Coastal Act and be provided for in the allocation of services in proportion to their recommended land use with the service area." Project approval is therefore inconsistent with policies protecting priority uses under the Coastal Act and the LCP.

The RMS of the LCP was, in theory, put in place to assure comprehensive monitoring and wise decisionmaking about new development in light of available resources. In general, the County has done a good job of monitoring and reporting about resources. The difficulty has arisen in translating this technical analysis into action. The current system appears relies on the Board of Supervisors to "certify" RMS levels of severity before action to address resource deficiencies is required. The BOS rarely certifies an identified LOS. This lack of certification inhibits proactive responses to assure that only environmentally-sustainable development is approved.

Moreover, it is not atypical for developments to be approved with conditions to show adequate resource capacity prior to construction. In certain circumstances where there are clearly adequate resources, such an approach may be appropriate. In 1996 the Commission approved an amendment to the RMS system in response to the County's desire to have more flexibility in responding to resource capacity deficiencies. The amendment added language to the Framework for Planning that would allow the Board of Supervisors to implement "other appropriate measures" other than the required enactment of a moratorium on land development in area found to be at LOS III.

Since 1996, though, the County has not demonstrated that other appropriate actions are adequate to address Coastal Act requirements. More fundamental, the lack of <u>certified</u> LOS renders the procedures outlined in the LCP ineffective; they are neither mandatory, nor have they been implemented voluntarily. The Resource Management Summary annually compiles valuable information on the current status of resources and development within the county. As a planning and decisionmaking tool, however, the RMS has not worked as originally envisioned.

Similarly, the Interim Service Capacity Allocation program intended to address the public service constraints particular to the Los Osos area has not been implemented in a manner that effectively preserves limited water supplies for priority uses.

Improving the implementation of the RMS system will become increasingly important for San Luis Obispo County, particularly in communities such as Los Osos and Cambria. While these communities are currently constrained by resource capacity deficiencies, this could change in the very near future. In Los Osos, a new wastewater treatment plant will bring added pressures to develop in the urban area. It will be important to have a comprehensive evaluation of available water supply and other resource constraints, as well as to have a strategy to support new development and reserve capacities for priority uses, before this time comes. Likewise in Cambria, in the event that desalination comes online as an additional water source, it will be important to have an aggressive buildout reduction program in place in order to address other limitations in Cambria, such as road capacity, Monterey Pine forest protection, and nonpoint source pollution.

Consistency Analysis: County implementation of the Public Works Policies has not been generally consistent with the Coastal Act requirements to approve only environmentally-sustainable development. New development approvals in Cambria and Los Osos raise concerns about water supply and wastewater capacity. Groundwater basins in both communities are under severe stress. Continuing the status quo will not achieve consistency with section 30250 concerning new development or section 30231 concerning protection of groundwater supplies.

Preliminary Policy Alternatives

To improve the ability of the LCP to promote environmentally-sustainable coastal development, a variety of County-wide and community-specific alternatives should be considered. The most significant improvements could be made in the implementation of the RMS system which, while providing timely assessments of available resources, has not ordinarily led to proactive decisionmaking to limit new development in light of limited public services. Policies and programs also need to be considered to address the small-lot buildout potential of Cambria and Los Osos.

Preliminary Recommendation 2.12. Strengthen Implementation of the RMS System and ISCA.
The RMS monitoring reports have not always been translated into decisions about managing development that meet the requirements of the Coastal Act. The theory of the RMS is to base new development levels on scientific assessment of resource capacities to support such development. Alternative approaches are needed to better ensure that this will happen. One possible approach is to move into the second phase of RMS implementation anticipated in the Framework of the current LCP. This phase would establish an expanded RMS task force, including participation by Coastal Commission staff and other resource agencies, to facilitate technical assessment, coordination, and consideration of resource management options. For example, there is a need for coordinated assessment and action on the part of the County, the

Commission, and the Cambria CSD with respect to water supply in Cambria. Without such coordination and responsibility, it is more likely that difficult resource management decisions will not be made, or that they will continue to be debated on an incremental, case-by-case basis, instead of through comprehensive planning and regulatory responses. Enhanced joint decisionmaking and interagency stakeholder problem-solving could advance efforts to address this problem. The ISCA program currently in the LCP needs to be followed in evaluating new development proposals for Los Osos.

Preliminary Recommendation 2.13. Address Cambria Short-term Development.
The short-term problem of water supply in Cambria could be addressed in a number of ways, including limiting short-term growth rates. At a minimum it would seem that the current 1.0% growth should be kept in place, rather than increasing potential new development back to the 2.3% growth rate anticipated by the County's growth management ordinance. However, this would not address the Commission's 1998 findings that would have required a development moratorium by January 2001 unless certain performance standards had been met (which have not). As discussed, the CSD has conducted additional studies, and the County has recently evaluated water supply and demand in Cambria in the NCAP project description. There is a need for the County and CSD to work collaboratively to complete critical information needs. To the extent that this recent study may raise uncertainties about how much water is available, coordination discussion with Commission staff over the next several months would be useful. The habitat and in-stream flow studies that the Commission identified as being necessary in 1998 should be conducted as well. One option, therefore, would be to allow 1.0% until 1/1/02, subject to finishing the resource capacity study. Another option that would be the most precautionary in terms of protecting coastal resources, would be to enact a development moratorium through the RMS system, until such time as the water problems for future development is more definitively resolved.

Preliminary Recommendation 2.14. Establish Watershed/Basin Management Programs
The current NCAP project description discusses establishing a Coordinated Resource Management Program (CRMP) to address competing rural and urban uses in North Coast groundwater basins. Such an approach would help to establish consensus as well as promote watershed inventorying and monitoring (NCAP, 3-12).

Preliminary Recommendation 2.15. Consider Additional Options for Water Conservation
As discussed, the CSD has implemented a variety water conservation programs. Additional LCP policies and standards should be considered that would strengthen requirements for minimizing water use, such as xeriscaping and native drought-tolerant landscaping requirements.

Preliminary Recommendation 2.16. Cambria Long-term development (Buildout Reduction)
The LCP needs to be amended to address long-term development potential in Cambria. The County should work to expand the TDC program by identifying other sensitive areas that would benefit from transfer of potential development to more suitable locations. Expansion should include Special Project Area #2, as well as watershed areas, other scenic corridors and other small lot tracts in undeveloped areas that support significant coastal resources, particularly contiguous blocks of sensitive pine forest habitat. More aggressive policy options should be

considered as well, including development of an Assessment District to retire lots/create open space and promote forest protection. Other mechanisms should be evaluated such as the ability to use mitigation fees or erosion control fees to address long-term buildout. Further attention could be focused on alternatives for reducing development potential on single and double lots and creating incentives for the minimum lot size of 7000 square feet.

Preliminary Recommendation 2.15. Prohibit Creation of New Development Potential in Cambria and Los Osos.
The County should consider prohibiting subdivisions that create new development potential in the communities of Cambria and Los Osos. Subdivisions that include no net gain in development potential (e.g. includes lot retirement) might be considered. In 1998, the Commission recommended a modification that would have required lot reduction in order to subdivide in Cambria.

Preliminary Recommendation 2.17. Address Cumulative Impacts to Urban Design in Cambria.
Through community planning and LCP amendments, cumulative impacts to urban design should be addressed, particularly concerning the potential role of TDC use. Consider standards to better address the amount of TDCs any one site can use based on the capability of the lot (size, slope, etc.) to handle the increase in square footage. Address minimum area of landscape that must be preserved, regardless of lot size; as well as a maximum footprint area.

Preliminary Recommendation 2.18. Los Osos Short-term Development
Similar to Cambria, focused attention is needed on pending studies concerning the safe yield of the Los Osos groundwater basin and the role that a future wastewater treatment facility might play in determining this yield. The County should consider policies and standards to assure that new development that relies on the groundwater basin is not allowed until a safe-yield or alternative water source is determined.

Preliminary Recommendation 2.19. Los Osos Long-term development
As discussed in the ESHA chapter, buildout reduction or management strategies are needed for future development that may be facilitated by the construction of a new wastewater treatment plant. Options that build on the currently proposed TDC approach for habitat protection should be evaluated and incorporated into the LCP (see Chapter 4 ESHA).

CHAPTER 3: WATER QUALITY/MARINE RESOURCES

A. Policy Framework

The Coastal Act includes several policies to protect marine/terrestrial resources and water quality. Section 30230 of the Act requires that marine resources be protected, maintained, and, where feasible, restored. The biological productivity of coastal waters, including streams, estuaries, and wetlands, must be maintained. Requirements include controlling runoff and waste discharges to protect water quality, maintaining groundwater supplies and stream flows in order to sustain the biological productivity of coastal waters, and minimizing the alteration of riparian habitats and streams (Sections 30231 and 30240).

The San Luis Obispo County LCP is structured so that the County may work in tandem with the State Water Resources Quality Control Board to protect the beneficial use of coastal streams. Through various policies and ordinances, the LCP focuses on measures to "improve land and water use, alleviate flooding, and reduce erosion and sedimentation".[1] To control erosion and sedimentation, the LCP limits grading, based on the slope and timing of work. For grading or vegetation removal on steep slopes, a grading and erosion control plan is required. The LCP requires that "appropriate control measures" be used to minimize erosion and sedimentation. Agricultural practices must also minimize erosion and sedimentation. The LCP also requires that site design ensure that drainage does not increase erosion, either by using on-site retention or conveyance to storm drains or suitable watercourses. (See the following discussion for more detailed references of LCP policies.)

The LCP also requires that the integrity of groundwater basins be protected, and groundwater levels and surface flows be maintained. To protect groundwater basins, the LCP encourages on-site retention of runoff, where feasible. The hydrological system and ecosystem of coastal streams and riparian vegetation are to be protected and preserved. Policies limit alterations to streambeds, the removal of riparian vegetation, and requires that stream diversion structures not impede fish movements or affect stream flows. (See Chapters 2 and 4 for more detailed discussion of these policies).

B. Background

When certifying the LCP in 1988, the Commission identified a number of water quality issues including uncontrolled waste discharges at various locations in the County's coastal zone, water quality problems from irrigation and runoff of fertilizer and pesticides, erosion concerns, and water pollution from oil processing activities. Since certification of the LCP in 1988, much has been learned about water quality and the causes of water quality degradation. While early efforts at protecting water quality often focused on discrete sources of pollution (e.g., from factories and outfall pipes), non-point source pollution has since emerged as a key concern in protecting water

[1] Coastal Plan Policies pg. 9-1

quality. As understanding of the nonpoint source impacts on water quality from development and land use practices has increased, avoiding or minimizing these impacts has become a greater focus in land use planning and regulation along the coast and throughout the State.

Another important development is that, in 1990, Congress enacted the Coastal Zone Act Reauthorization Amendments to better link coastal water quality issues and land use activities. The amendments direct states and local governments to manage land use activities to prevent degradation of coastal waters and marine habitats; a primary emphasis of the amendments is to improve how non-point source pollution is managed. Under those amendments, the Coastal Commission has worked with the state and regional water quality control boards to develop a variety of management measures that reflect the Environmental Protection Agency's (EPA's) guidance for addressing the various aspects of nonpoint source pollution. Last year, the Coastal Commission and State Water Resources Control Board jointly adopted the *Plan for California's Nonpoint Source Pollution Control Program* which includes this framework of management measures to better manage polluted runoff and protect water quality throughout the State. A major component of the Commission's responsibilities under the plan is to facilitate the incorporation of appropriate management measures into LCPs throughout the coastal zone.

In the County, Morro Bay, Los Osos Creek, and San Luis Creek are identified as "impaired" waterbodies by the EPA and Regional Water Quality Control Board. Numerous other waterbodies, while not identified as impaired, are also degraded by nonpoint source pollution.[2] More recent studies and planning documents in the region indicate that threats to water quality in the coastal zone may be growing from a wide variety of sources. (See Appendix C for a summary of known water quality problems in the region.)

Coastal Watersheds

To fully address water quality impacts, the development and land use practices throughout a watershed must be addressed. San Luis Obispo County is divided into nine watersheds, each of which is further divided into smaller subwatersheds. The two watersheds which cover the coastal zone of the county are the Central Coastal Watershed, extending from Monterey County to south of the City of Grover Beach in San Luis Obispo County; and the Santa Maria Watershed, encompassing the southern part of San Luis Obispo County, and extending into Santa Barbara County. Map 3-A shows the watersheds and subwatershed boundaries for the region.

Central Coastal Watershed: This watershed, also termed the Estero Bay Hydrologic Unit by the Department of Water Resources (DWR), encompasses approximately 478,620 acres. Approximately 145,850 acres lie in the coastal zone. The watershed includes three subwatersheds (or hydrologic areas): Cambria, Point Buchon, and Arroyo Grande. Each of these

[2] The designation of impaired waterbodies is based on specific criteria for each waterbody, and does not address all sources of water pollution. The designation process is a continuing one, based on accumulated information. While waterbodies may not be currently designated as impaired, additional information could warrant future designation.

regions is further defined by smaller subareas (see Map 3-A and Appendix C). The entire watershed encompasses 19 rivers, including Arroyo de la Cruz, Arroyo Grande, Morro Creek, Pismo Creek, San Luis Obispo Creek, and Santa Rosa Creek. The coastal portion of the Central Coastal Watershed is predominately agricultural uses with small concentrations of developed areas. Much of the agricultural use is grazing. Appendix C summarizes the land uses for the Central Coastal Watershed.

A variety of land use activities and pollutants can affect the water quality of a watershed. For the Central Coastal Watershed, EPA's website lists the following as the most prevalent causes of water quality problems for rivers and streams: pathogens, siltation, metals, priority organics, nutrients.[3] The most prevalent sources include: urban runoff/storm sewers, agriculture, municipal point sources, resource extraction, and construction. For Morro Bay, which is part of the Central Coastal Watershed, the EPA has identified the following as potential sources of impairment: agriculture, boat discharges/vessel wastes, channel erosion, channelization, construction/land development, irrigated crop production, natural sources, nonpoint sources, resources extraction, septage disposal, surface mining, upland grazing, and urban runoff/storm sewers.

Santa Maria Watershed: This watershed encompasses approximately 1,197,630 acres, much of which lies to the east of the coastal zone boundary and/or in Santa Barbara County; approximately 12,625 acres of the watershed are within the coastal zone of San Luis Obispo County. The main watershed is defined by three subwatersheds or hydrologic areas: the Guadalupe, Cayuma Valley, and the Sisquoc. The Cayuma Valley and the Guadalupe subwatersheds lie within San Luis Obispo County; only the Guadalupe subwatershed lies, in part, in the coastal zone. Major rivers in the watershed include the Cayuma River, La Brea Creek, Manzama Creek, Santa Maria River, and the Sisquoc River.[4] The portion of the watershed in the coastal zone is predominately open space/recreation (Oceano Dunes State Vehicular Recreation Area) and agricultural uses, and falls under the LCP's South County area plan. Much of the land is dune habitat. The Santa Maria Oil Refinery and Chemical Plant and Guadalupe Dunes oil field are also defining uses in this area, on the southern edge of the County's coastal zone. The major threats to water quality in this watershed were identified as being from agricultural runoff into Santa Maria River and Estuary and Oso Flaco Lake, pollutants in groundwater from irrigation return and sewage plant discharge and oil processing and leakage concerns. (See Appendix C).

Coastal Groundwater Basins

In San Luis Obispo County, water quality issues are also directly tied to the water supply: as discussed in Chapter 2 (Development), much of the County's water supply comes from groundwater basins and coastal streams. Excessive withdrawals can lead to seawater intrusion, affecting water quality, and can alter surface flows, affecting the marine habitat and flora and fauna. Since certification, the problem of saltwater intrusion in groundwater basins appears to be

[3] EPA website: epa.gov/iwi/hucs/18060006/indicators/data/CArivers-cs98.html
[4] EPA Website: www.epa.gov/surf3hucs/1806008

an increasing threat to water quality. Prior to certification of the LCP, there were concerns of overdraft on the Pico, San Simeon, and Santa Rosa Creeks; Chorro and Morro basins, Los Osos Creek, Arroyo Grande Valley and Nipomo Mesa.[5,6,7,8,9] Currently, groundwater overdrafts and seawater intrusion remain a concern in these areas, as well as in the Cayucos basin.

General Regulatory Trends: The County relies on sedimentation and erosion control plans and/or drainage plans as a primary tool to protect water quality. Of the 2,481 Final Local Action Notices (FLANs) received by the Commission for development approved by the County, 533 (approximately 21%) have required either sedimentation/erosion plans and/or a drainage plan in an effort to control runoff and protect water quality. The vast majority of projects requiring these plans were for residential development in the urban areas of Cambria, Cayucos, and Los Osos (an estimated 460).

Appeals and Amendments: Six local development permits were appealed to the Coastal Commission that raised water quality issues. In three of the six appeals, the Commission found that the County had not adequately addressed potential water quality impacts from the proposed development, particularly erosion from grading and ongoing runoff concerns during and after construction (A-SLO-93-113; A-3-SLO-98-61; A-SLO-99-50). Other projects raised issues of existing drainage problems and the effect on stockpiling sod and landscaping materials (A-3-SLO-94-10); a wastewater treatment system (A-3-SLO-97-40); and the oil spill cleanup at Guadalupe Dunes (A-3-SLO-98-91).

The Commission also acted on five amendments to the LCP that affect managing development for water quality. The major issue dealt with grading on steep slopes (LCPA 2-84). While the County proposed some restrictions to grading on steep slopes, the Commission found that the County's proposal would lead to potentially significant erosion and sedimentation, and would not adequately protect water quality. As a result, the Commission suggested modifications with more stringent restrictions to grading on steep slopes that the County subsequently adopted into its LCP. Other amendments approved by the Commission exempted certain development from requiring grading permits, although projects would still require County approval for grading plans, and deleted a requirement for curbs and gutters for multi-family developments in Cayucos and San Luis Bay (LCPA 1-87; 1-84). LCPA 2-84 required projects in the South Bay urban areas of Estero Bay to address erosion of hillsides and siltation through the preparation of drainage plans. Finally, as discussed also in Chapter 5 (Agriculture), LCPA 1-90 authorized the redesignation of agricultural lands in Los Osos to accommodate a wastewater treatment plant for Los Osos. The Commission found that the plant was necessary to protect water quality. More detail on the wastewater issue in Los Osos is presented in Chapter 2.

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[5] San Luis Obispo County. 1978. Local Coastal Program. Phase 1 Work Program.
[6] San Luis Obispo County. 1978. Draft Natural Resource Area Study. Work Task 208 for San Luis Obispo County LCP.
[7] Findings on County of San Luis Obispo Local Coastal Program Land Use Plan. October 6, 1982.
[8] Crawford, Multari, Clark and Mohr. December 1999. Draft EIR for Estero Area Plan Update. pg. 5.4
[9] San Luis Obispo County. 1990. Resource Management Study.

C. Preliminary LCP Implementation Issues

C.1. Water Quality Impacts from Agricultural Operations

Agriculture is a major land use throughout the two coastal watersheds in San Luis Obispo County. Available information on the quality of coastal waters also shows agriculture as a major source of nonpoint source pollution.[10] Since Commission approval of the San Luis Obispo Land Use Plan in 1983, and final certification of the LCP in 1988, much has been learned about managing the water quality impacts from agricultural activities. Although the certified LCP contains a variety of policies and ordinances to address water quality, the LCP should be updated to include the best professional knowledge and understanding about effective water quality management, particularly nonpoint source pollution associated with agriculture and associated development.

Overview: In general, agriculture is the greatest source of water pollution in the U.S. Agricultural practices can lead to erosion and sedimentation; pollution of water through runoff of fertilizers and pesticides; increases in bacteria, nutrients, and heavy metals into waters; and the physical alteration of riparian and in-stream habitats.[11,12,13] These sources of nonpoint source pollution can occur from general grading practices and crop production, application of chemicals, runoff of animal waste, and grazing practices. Because agriculture is the predominant land use throughout the coastal zone of San Luis Obispo, addressing water quality issues associated with agriculture is central to ensuring the protection of water quality in the County, and to meeting the water quality goals of the Coastal Act.

Erosion and Sedimentation: Grazing and other agricultural practices are likely contributing factors to erosion and sedimentation of streams throughout San Luis Obispo County. Agriculture and grazing are suspected sources of siltation to San Carpoforo Creek in the North Coast area, and are potential sources of impacts in the Morro Bay watershed.[14] Agriculture is also one source of erosion into streams throughout the Estero region (See Appendix C). Finally, the water in San Bernardo Creek is known to be contaminated with coliform from cattle. Overgrazing results in soil compaction and removal of vegetation, resulting in decreased infiltration of water and an increase in soil erosion.[15]

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[10] State Water Resources Control Board and California Coastal Commission. January 2000. Plan for California's Nonpoint Source Pollution Control Program. pg. 88

[11] Monterey Bay National Marine Sanctuary, Water Quality Protection Program. October, 1999. *Action Plan IV: Agriculture and Rural Lands.*

[12] Morro Bay National Estuary Program. August, 1999. *Turning the Tide for Morro Bay: Draft Comprehensive Conservation and Management Plan for Morro Bay.*

[13] California Coastal Commission. May, 1998. *Revised Staff Report for Consistency Determination CD-051-98 (Natural Resources Conservation Service).*

[14] University of California, Davis. Information Center for the Environment. California Rivers Assessment Program. (www/ice.ucdavis.edu).

[15] Monterey Bay National Marine Sanctuary, Water Quality Protection Program. October, 1999. *Action Plan IV: Agriculture and Rural Lands.*; pg. 15

The conversion of open space lands, including historic grazing lands, for cultivation can result in significant landform alteration, with the potential for increased erosion and sedimentation rates, and changes in drainage and runoff patterns. As discussed in Chapter 5 (Agriculture), the changes in agricultural lands to vineyards is increasing in the County. Because of the extent of bare ground associated with establishing new vineyards, the rates of erosion over the first few years can be significantly higher than for lands used for other agricultural crops or for grazing. While the growth in vineyards is more prevalent outside of the coastal zone, it remains a potential concern within the coastal zone. In fact, under the Estero Area Plan, the County is encouraged to find additional water sources to expand irrigated croplands and vineyards.[16]

Pesticides: In general, runoff containing residues of pesticides (and other chemicals) is a significant concern for the protection of water quality and marine resources. Some estimates note that between 1991-1998, pesticide use throughout San Luis Obispo County increased by approximately 53%, from approximately 1,572 pounds to approximately 2,403 pounds of active ingredients used.[17] Californians for Pesticide Reform (CPR) identify so-called "Bad Actor" pesticides as "California registered pesticides that are acute poisons, carcinogens, reproductive or developmental toxicants, neurotoxins, or groundwater contaminants" and estimate that in SLO County use of these pesticides rose by 24%.[18] While these are county-wide data, pesticides will be carried into coastal waters through stormwater runoff regardless of whether the initial application of the pesticide is within the coastal zone or inland of the coastal zone boundary.

The quantity and specific pesticides used will vary by the commodities grown. San Luis Obispo County has seen an increase in the production of wine grapes, avocados, lemons and nursery plants over the past decade.[19] In general, the increase in these crops has lead to an increase in pesticide use in the County. The change in pesticide use and the acres used for crop production of these commodities between 1993-1998 are illustrated in Table 3-1, below.

Table 3-1: Change in Pesticide Use and Farm Acreage for Selected Crops, San Luis Obispo County, 1993-1998:

Crop	Change in Acres	Change in Pesticide Use
Wine Grapes	increase 31%	increase 84%[20]
Avocados	increase 8%	increase 885%
Lemons	increase 5%	decline 22%
Nursery (includes greenhouse, outdoor grown plants, flowers)	increase 11%	increase 78%
Carrots	N/A	increase 352%
Apples	increase 69%	increase 66%
Peas	increase 22%	decrease 34%

(Sources: County Agriculture reports 1994 and 1998 for acres; Pesticide Use Reporting; Department of Pesticide Regulation, www.cdpr.ca.gov; "Product Use and Data"; "Pesticide Use Reporting".)

[16] Estero Area Plan. pg. 6-21.
[17] Kegley, Susan, Stephan Orme, and Lars Neumeister. *Hooked on Poison: Pesticide Use in California 1991-1998.* Published by Pesticide Action Network North America Regional Center and Californians for Pesticide Reform. 2000
[18] ibid. pg. 7.
[19] Robert Hopkins. County Agriculture Commissioner. Pers. comm 5/5/00.
[20] For all grapes, the increase in pesticide use is 427%.

Monitoring for Pesticides: Although some pesticides are known to be toxic to wildlife and humans, monitoring for the presence of pesticides is infrequent. There is evidence of pesticide residue in some coastal lagoons in Central California; many of the pesticides evident were those used in the past, but still present in the environment, including DDT.[21] Studies also show that pesticides, fertilizers, nutrients, and other pollutants from agriculture are evident in waterbodies in the Nipomo Mesa subarea, in Arroyo Grande Creek, and Oso Flaco Lake. As shown in Map 3-B, pesticides are used throughout the County, but are concentrated in the Santa Maria Estuary region in the South Bay. Ongoing and complete monitoring has not been undertaken to evaluate the presence of pesticides in the County's streams and estuaries, due in part to the expense of testing for pesticides.[22] The Regional Water Quality Control Board has recently begun conducting more ambient water quality monitoring, including some monitoring for pesticides.

LCP Implementation: The LCP currently has several general policies that address water quality and agriculture. Watershed Policy 12 states that agricultural practices shall minimize erosion and sedimentation through accepted management practices. Watershed Policy 14 states that proper soil conservation techniques and grazing methods shall be employed to the maximum extent feasible in accordance with the California Water Quality Control Board 208 standards. Agriculture Policy 8 "encourages" proper soil conservation techniques and grazing. Finally, the San Luis Bay Area Plan includes language to develop a program to reduce erosion impacts from grazing.

The County's LCP also regulates animal keeping. Ordinance 23.08.046 of the LCP states that where a permit is required for animal facilities, it must address the drainage patterns of the site, how the applicant will avoid soil erosion and sedimentation, and how disposal of animal waste will be done. It requires that sedimentation will not occur on public roads, adjacent property, or in any drainage channel. For beef and dairy feedlots, the LCP requires notice to the Regional Water Quality Control Board for review (Ordinances 23.08.052/23.06.100).

Review of locally issued permits indicates that while the County has not approved any large animal facilities or feed lots between 1988 and 1998, it has approved several permits for private and commercial horse stables. Although they are not specifically large animal facilities, these recreational livestock facilities can still degrade water quality through polluted runoff.[23] Review of the County's findings for these projects shows that the County has generally required actions to protect water quality, including the use of hay bales to control erosion during the rainy period and requiring measures to keep manure from being carried in runoff.[24]

Aside from regulating animal facilities, there are few cases where actual agricultural activities are regulated under the LCP because many are exempt from regulatory review.[25] Under the LCP

[21] Karen Worcester. Regional Water Quality Control Board. Pers. Comm. 6/13/00.
[22] Karen Worcester. Regional Water Quality Control Board. Pers. comm 6/13/00.
[23] Monterey Bay National Marine Sanctuary, Water Quality Protection Program. October, 1999. *Action Plan IV: Agriculture and Rural Lands.* pg. 7.
[24] FLANs 3-SLO-94-079 and 3-SLO-91-013.
[25] Grading for agricultural roads and the placement of agricultural accessory structures, such as barns, require coastal development permits under the LCP. The water quality issues related to these activities are discussed in the Urban and Rural Development section of this Chapter.

Ordinance 23.03.040(d)(9), permits are not required for "[c]rop production and grazing where designated allowable by Coastal Table 'O' ..., except where more than one-half acre of native vegetation is proposed to be mechanically removed". In addition, grading permits are not required for "agricultural cultivation activities including preparation of land for cultivation, other than grading for roadwork or pads for structures" (Ordinance 23.05.026). The County has reported a significant number of coastal development permits for new wells, mostly located in agricultural areas of the North Coast and Estero.

In addition to LCP implementation, other regional agencies have implemented programs to address sedimentation impacts from agricultural practices in San Luis Obispo County. The San Luis Resource Conservation District Chorro Flats Enhancement Project was undertaken to reduce sedimentation into Morro Bay. While the causes of sedimentation may not be solely from agricultural practices, the watersheds of Chorro Creek and Los Osos Creek, which drain into Morro Bay, are predominately agricultural. Sixty percent of the Chorro Creek watershed is rangeland.[26] A second project is a larger-scale management program for Morro Bay undertaken by the Morro Bay National Estuary Program (NEP). The NEP's proposed management plan seeks to improve water quality in Morro Bay by addressing the sedimentation problems, as well as a variety of other impacts to water quality. While not the sole cause of water quality degradation, agricultural activities are cited as one contributing factor.

Consistency Analysis: Where permits have been required in limited cases, the County has generally implemented LCP requirements to control runoff from agricultural activities. Since certification of the LCP, though, new, revised management tools have been developed to address many of the sources of polluted runoff from agricultural practices; thus, the LCP policies appear to need to be updated in order to protect water quality consistent with the Coastal Act.

The State's new *Plan for California's Nonpoint Source Pollution Control Program* identifies the various sources of nonpoint source pollution from agriculture and corresponding management measures. These management measures and a preliminary review of the relevant LCP policies and ordinances that implement them are presented in Appendix D. The objectives of the new management measures are to reduce solids and pollutants in runoff, contain or manage runoff from animal facilities and prevent seepage into groundwater, reduce contamination of groundwater and surface waters from pesticides, reduce use of pesticides, protect sensitive areas by reducing loading of animal wastes and sediments in grazing areas, and reduce pollution of surface waters caused by irrigation.

Although the County has generally implemented the existing LCP's policies and ordinances to reduce sediment, protect grazing lands, and limit discharge from animal facilities (Management Measures 1-4) the policies should be updated to protect water quality in light of current best management practices. For example, State and Regional Water Quality Control Boards have updated the Basin Plan Receiving Water Standards for maintaining water quality. Thus, the County policy reference in Agricultural Policy 8 to Section 208 standards is no longer the

[26] Coastal San Luis Resource Conservation District. March 2000. Chorro Flats Enhancement Project Final Report. (www.coastalrcd.org).

applicable standard. In addition, although grazing practices are encouraged to use proper soil conservation techniques to the maximum extent feasible, under the LCP, adding a grazing management program to the LCP could help to address water quality impacts from grazing. While Ordinance 23.08.046 regulates feedlots, and requires measures to address sedimentation and erosion, it does not fully implement the objectives of management measure 4, and therefore does not fully protect water quality. To fully address water quality impacts from feedlots, and meet the objectives of management measure 4, other sources of nonpoint source pollution must also be addressed, including standards to contain runoff and prevent contamination of groundwater.

In addition, the LCP does not have any specific mechanisms to address other sources of nonpoint source pollution from agricultural practices, including degradation of water quality from nutrients, pesticides, and irrigation (Management Measures 5-7). The Coastal Commission has had some success addressing such problems working programmatically with other agencies, such as the Natural Resource Conservation Service (NRCS). For example, in Elkhorn Slough in Monterey County, the Commission approved an NRCS program that provides outreach, education, and funding to strawberry farmers to assist them in implementing erosion control measures such as vegetated buffers and settling basins. A similar programmatic approach could be supported by the County's LCP. By developing a program to address these nonpoint source pollution concerns and by working with the RCS, NRCS, and local farmers, the County could better protect water quality from these practices.

Finally, the County's coastal permit exemption policies can result in impacts to water quality that are not consistent with Coastal Act policies. If removal of less than one-half acre of native vegetation is exempt from permit requirements, in these situations there is no mechanism to assure implementation of measures to protect streams, wetlands, or other coastal waters from erosion and sedimentation if grading is undertaken adjacent to those waterbodies. Limiting such exemptions to areas not immediately adjacent to coastal streams and wetlands would help minimize impacts to water quality. In addition, as noted previously and discussed further in Chapter 5 (Agriculture), the conversion of open space lands can result in significant landform alteration, potential erosion concerns, and alteration of drainage and runoff patterns. Modifying the agricultural exemptions to require coastal development permits, or developing other programs to address water quality, where agricultural practices result in these changes would improve the protection of water quality (see Preliminary Recommendations 5-10 through 5-13, Chapter 5).

Section 30231 of the Coastal Act requires that the quality of coastal waters be maintained. The Commission has recognized that runoff from agricultural practices can be detrimental to marine resources and coastal water quality.[27] Since certification of the County's LCP, much has been learned both about the adverse impacts of agricultural activities on water quality, and about appropriate management techniques for addressing these impacts. Waterbodies such as Morro Bay and the many sensitive coastal streams in San Luis Obispo should be guaranteed the highest and most up-to-date levels of protection possible. Under continued implementation of the limited policies of the LCP, nonpoint source pollution of coastal waters from agricultural

[27] California Coastal Commission. May, 1998. *Revised Staff Report for Consistency Determination CD-051-98 (Natural Resources Conservation Service).*

operations will likely continue. Updating the LCP to reflect improved management practices, through both regulatory changes and through non-regulatory programs, will better ensure that water quality and marine resources are adequately protected in conformity with Section 30231 of the Coastal Act.

Preliminary Policy Alternatives

As discussed above, the Coastal Act objective of protecting coastal water quality and marine resources will be enhanced by integrating new knowledge and management practices into the County LCP. There are several alternatives for modifying the LCP. Existing policies and standards can be updated to incorporate new best management practices. Non-regulatory programs to address water quality impacts from grazing, nutrient and pesticide runoff and water quality degradation from irrigation practices can be incorporated into LCP, using stakeholder coordination, multi-agency coordination, or other such actions. Ensuring a more comprehensive review through the regulatory program of related developments can also improve treatment of important water quality issues. For example, approvals of additional irrigation wells may need to be coupled with drainage plans that protect natural drainage areas and limit off site runoff. In addition, the county could work with pesticide manufacturers and distributors to develop more comprehensive means for reductions in pesticide use; including evaluation of pest, crop and field factors; use of Integrated Pest Management (IPM); consideration of environmental impacts in choice of pesticides; calibration of equipment; and use of anti-backflow devices. Integration with other agencies who have educational programs and regulatory authority to limit chemical application and water use can be identified. The County has already recognized the value of such intergovernmental stakeholder approaches in the most recent North Coast Area Plan project description, which discusses the possibility of establishing a Coordinated Resource Management Program (CRMP) for coastal creek watersheds such as San Simeon and Santa Rosa Creek. [28]

It should be noted that the County's recent efforts to revise the grading ordinance provides a good opportunity to revise and update the current standards. After several months of analysis and review, the County Board of Supervisors adopted a resolution to repeal the existing grading ordinances in the certified LCP (Sections 23.05.020 through 23.05.050) and replace it with Ordinance 2864. The results of this effort are part of a larger LCP amendment that has been submitted to the Commission for certification into the LCP. Commission staff is currently completing its evaluation of this revision and will be making a recommendation to the Commission for action in March 2001.

Some preliminary recommendations to address the concerns raised in this report are outlined below.

Preliminary Recommendation 3-1: Modify and adopt the following polices and standards in the LCP. (***Bold italics*** indicate new language; strikeouts indicate language proposed to be removed.)

[28] San Luis Obispo County North Coast Area Plan. pg. 3-13.

Agriculture Policy 8: Proper soil conservation techniques and grazing methods should be encouraged in accordance with ~~208 Water Quality Standards~~ ***Basin Plan receiving water objectives*** adopted to meet the water quality requirements of the California Regional Water Quality Control Board.

Coastal Watershed Policy 14: Proper soil conservation techniques and grazing methods shall to the maximum extent feasible be employed in accordance ~~with 208 water quality standards~~ ***Basin Plan receiving water objectives*** adopted by the California Water Quality Control Board.

Ordinance 23.08.046 c(2): Application content. Where this section requires land use permit approval for a specific animal raising activity, the permit application shall include the following in addition to all information required by Sections 23.02.030 ...

(i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.

(ii) The applicant's plans for animal waste disposal, ***including plans showing measures to confine runoff, adequate capacity to allow for proper wastewater disposal, and measures to prevent seepage to groundwater.***

(iii) ...

e(2): Erosion and Sedimentation control. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation ***or runoff*** on any public road, adjoining property, or in any drainage channel. ...

Preliminary Recommendation 3-2: Modify LCP to incorporate mechanisms to fully implement the management measures identified in Appendix D. Appendix D identifies preliminary policy alternatives to achieve this goal.

C. 2 Water Quality Impacts from Urban and Rural Development

As with agricultural activities, much has been learned since certification of the San Luis Obispo County LCP about the effective management of impacts to water quality from urban development. The San Luis Obispo County LCP should be updated to fully protect water quality from urban development. In addition, while the County has required erosion control measures in many cases, review of the County's LCP implementation raises some concerns regarding the protection of water resources. These concerns include the adequacy of existing policies and standards, and the effectiveness of the County's typical conditions applied under these policies to mitigate impacts of development.

Overview: While there is no up-to-date, comprehensive water quality monitoring done in San Luis Obispo County, runoff from urban development is known to be a factor in many of the water quality problems identified through past studies (see Appendix C). Urban development

can affect water quality due to a number of factors. The location and siting of development can be a key element in minimizing the extent of erosion, sedimentation, and water runoff from a site, thereby reducing nonpoint source pollution and better protecting water quality. For example, development on steep slopes can lead to significantly greater erosion and runoff than development located on a more gentle grade; the runoff from the site can ultimately affect the water quality of nearby or downcoast streams and other waterbodies. As discussed previously, the coastal zone of San Luis Obispo County is characterized by various nodes of urban development, including the towns of Cambria, Cayucos, Los Osos/Baywood Park, Avila Beach, and Oceano. Parts of Cayucos and Cambria have steep slopes where erosion and runoff is a significant concern. Septic systems are also causing water quality problems and concerns in areas such as Los Osos.

A recent erosion and sedimentation study by the Natural Resources Conservation Service in the Lodge Hill area of Cambria identified impacts of runoff in developed areas. The findings from this 1999 study indicate that residential development and road construction have led to increased runoff from the impervious surfaces, resulting in a higher rate and volume of runoff, and possible changes in flow patterns and rates of sedimentation into streams.[29] The report also states that unpaved roads are a primary source of erosion and that the area lacks a coherent system to manage storm water runoff. The study also notes that the forest plays an important role in increasing water infiltration, and reducing runoff and velocities. The study concludes that runoff will increase with increased development of the area.

In addition to urban areas, much of the rest of the County's coastal zone is by characterized less dense, rural residential and agriculture development, and a mix of rolling hills, valleys, and steep slopes. As noted previously, about 10% of the new residential development approved was outside the urban nodes. This ex-urban development raises water quality issues, due, in part, to the less concentrated development patterns. Residential development on large rural lots can lead to an increase in impervious surfaces through, for example, larger structures and separate, long access roads to reach the residential development. This increase in impervious surfaces can increase polluted runoff, erosion, and sedimentation.

Other aspects of development that can affect water quality include impacts from construction activities and managing ongoing runoff from development after it is constructed. The extent of impervious surfaces in an area also significantly increases the extent and rate of water runoff, and can increase the level of pollutants carried downstream into waterbodies. Conversely, the extent of open space and vegetation retained on site can serve to increase water infiltration, reducing the downstream potential for erosion, and reduce the extent of polluted runoff.

Industrial uses can also affect water quality by contributing to runoff of toxic chemicals in surface waters and/or by polluting groundwater. In San Luis Obispo County, water quality has been affected by both MTBE leaking from gas stations and from oil leaks at Avila Beach and Guadalupe Dunes.

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[29] USDA Natural Resources Conservation Service. February, 1999. *Cambria Erosion and Sediment Study; Lodge Hill Study Area; Cambria, California.*

MTBE: MTBE was added to gasoline in 1992 to address concerns over air quality. However, the additive has raised concerns over water quality.[30] The Regional Water Quality Control Board began a monitoring program in 1996 for MTBE in San Luis Obispo County. Samples from underground fuel tanks are taken regularly to test for evidence of MTBE in groundwater. In the last several years, the frequency and concentration of MTBE in groundwater has been increasing.[31] Upon detection of contamination, further monitoring is done to determine the scope of the contamination and a remediation plan is developed. Contaminated sites occur throughout the San Luis Obispo County. Although no contaminated surface waters have been identified, 28 service stations show MTBE concentrations in ground water, ranging from concentrations of 710,000 ppb to 1.2 ppb.[32] The majority of these sites are inland of the coastal zone. Unfortunately, the communities of Cambria, Los Osos, and the City of Morro Bay have been struggling with MTBE contamination that is threatening groundwater supplies. As noted in Chapter 2, in Cambria, the CSD has recently had to drill an emergency well to protect its residential water supply.

LCP Implementation: To address nonpoint source pollution from urban development, the County's LCP focuses on controlling erosion and sedimentation, on managing drainage patterns to reduce erosion and runoff, and on siting development off steeper slopes. Specifically, the LCP requires that: measures to control erosion and sedimentation be used at the start of site preparation; requires that land clearing and grading avoid the rainy season if there is a potential for "serious" erosion and sedimentation; requires erosion control measures be in place before the rainy season; and requires that the area of exposed soil be minimized (Watershed Policies 8, 9, 13).

The County implements these goals by requiring sedimentation and erosion control plans and/or drainage plans. Sedimentation/erosion control plans are required when: (1) grading requiring a permit is conducted or left in unfinished state from October 15 through April 15; (2) land disturbance activities, including removal of more than one-half acre of native vegetation in geologically unstable areas, on slopes over 30%, on soils rated severe erosion hazards, or within 100 ft of a `watercourse shown on current 7 ½ minute USGS quad map; or (3) placing or disposal of material above or below anticipated high water line of watercourse where it may be carried into waters by rainfall or runoff in quantities deleterious to fish, wildlife, or other beneficial uses (Ordinance 23.05.036).

Drainage plans are required for projects which (1) disturb 40,000 sq. ft or more of land; (2) result in impervious surface of 20,000 sq. ft or more; (3) are in areas with a history of flooding, ponding, or in a flood hazard combining designation; (4) disturb land within 50 ft of a watercourse; (5) are on hillsides over 10% slope; or (6) are on a coastal bluff (Ordinance 23.05.042).

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[30] On March, 25, 1999, Governor Davis issued Executive Order D-5-99, stating that the "California Energy Commission (CEC), in consultation with the California Air Resources Board, shall develop a timetable by July 1, 1999 for the removal of MTBE from gasoline at the earliest possible date, but not later than December 31, 2002.
http://www.governor. ca.gov/briefing/execorder/d599.html
[31] Jay Cano, Regional Water Quality Control Board. Pers comm. 4/28/00
[32] Regional Water Board data, May 2000

The North Coast Area Plan also has additional requirements for development in the Lodge Hill area of Cambria. Development in this region must meet the following criteria:

- runoff from impervious surfaces must be collected and detained on-site or passed through an erosion control system approved by the County engineer;
- projects must include permanent erosion control devices;
- a sedimentation/erosion control plan is required if grading occurs between Oct 15-April 15;
- activities must minimize fill and site disturbance;
- activities must protect disturbed soils and stockpiles from rain and erosion;
- activities revegetate disturbed areas;
- developments must minimize impervious surfaces to the smallest functional use.

A second strategy used by the County is to restrict development on steep slopes. Generally, the LCP restricts development to slopes of less than 20%, with some exceptions allowing grading on slopes between 20-30%. The area plans generally reiterate these restrictions. These policies are discussed in more detail below.

For industrial development, the LCP focuses on ensuring adequate oil spill prevention and cleanup plans. Energy Policy 1 requires that "adverse environmental impacts" from siting or expansion of industrial and energy facilities be mitigated to the maximum extent feasible. Marine terminals also shall be designed and operated to minimize oil spilled, minimize the risk of collisions, and have oil spill contingency plans (Energy Policy 5). Pipelines for oil and gas are to be routed to minimize erosion (Energy Policy 8) and the extent of ground disturbance for projects is to be reduced to the minimum necessary (Energy Policy 9). Access roads are to follow contours of the land to the extent feasible and be located to minimize landform alteration (Energy Policy 20). Finally, site restoration is required for abandoned facilities if natural revegetation would take too long and would result in substantial erosion (Energy Policy 10).

The San Luis Bay, South County, and Estero area plans reiterate the requirement for oil spill contingency plans for future oil development in San Luis Harbor, and for any expansion or modifications to existing oil refinery and chemical facilities.

Non-Mandatory LCP Programs: In addition to these standards, the County's LCP contains several non-mandatory programs related to water quality. In the North Coast the LCP includes a program for the County to reduce erosion in the Lodge Hill Pine Forest, and specifically requires control and prevention of siltation to Santa Rosa Creek. For the Estero region, the LCP includes a program to undertake detailed drainage studies for the planning area, in order to design drainage systems to promote groundwater recharge. Finally, in San Luis Bay, programs note the need to monitor effects of development on runoff, particularly within the Pismo Creek drainage, and to undertake an erosion/sedimentation study of the Arroyo Grande fringe.

Adequacy of Erosion Control Plans and Related Conditions: The primary focus in San Luis Obispo County's LCP is to address erosion and sedimentation concerns from construction of new development. In comparison to other coastal jurisdictions in California, San Luis Obispo County has one of the strongest LCPs with regard to erosion control. The LCP requires that sedimentation and erosion control plans address both temporary and final measures, and that they include a) slope surface stabilization, b) erosion and sedimentation control devices, and c) final erosion control measures (revegetation within 30 days of completion of grading) (Ordinance 23.05.036). Under the LCP, drainage plans must also include erosion and sedimentation control measures and are to be reviewed by the County Engineer (Ordinance 23.05.044a).

The County has required the submittal of sedimentation and erosion control plans and/or drainage plans in approximately 21% of all approved projects between 1988 and 1998.[33] As noted above, the LCP requires erosion and sedimentation plans only for grading during certain times and for activities in certain locations. The plans were required most often for residential development , grading projects [34], and commercial development . More than one quarter of the 809 new single family homes were required to complete grading plans, with the majority of these occurring in Cambria. The County also required plans on other projects, including subdivisions, public works, and bluff or shoreline protection projects and incorporated a variety of measures to address sedimentation and erosion.

Review of many of the County's FLANs shows that numerous other projects incorporated other measures to address sedimentation and erosion. For example, some projects referenced and incorporated recommendations from engineering or geologic studies done for the proposed project. Other projects were conditioned to require erosion control plans if grading occurred between October 15th and April 15th. A number of projects also specified that runoff shall be collected on site and conveyed to existing stormdrains. For many projects in the Lodge Hill area of Cambria, the County required that runoff be retained on-site, or released through an approved erosion control device, as required by the area plan standards. The County's findings for these projects generally state that the proposed clearing of topsoil is the minimum necessary. They also state that "site preparation and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff, because, as conditioned, the project meets drainage and erosion control standards specified by the Engineering Department."

In some cases, the conditions lacked specific standards. For example, in a project for a retail stand, the County required the parking area to be designed and located "to minimize cut and fill and avoid sedimentation and erosion".[35] Although the permit is also conditioned to require drainage plans, there are no specific details to ensure that water quality concerns are addressed, whether they be sedimentation or on-going runoff from the parking lot.

The LCP policies and ordinances do not specify performance standards or necessarily require the use of up-to-date best management practices to assure that water quality is adequately protected when erosion control and drainage plans are required. Monitoring requirements to determine the

[33] These figures are based on notices of local actions received by Commission staff. In some cases, the County required both sedimentation and drainage plans for one development.
[34] Some of these grading projects may be part of residential projects.
[35] FLAN 4-SLO-91-183

effectiveness of the measures taken are also not required. Discussions with County staff indicate that erosion control measures are developed on a case-by-case process. Performance standards are generally not used, and only minimal monitoring is conducted.[36]

The Commission's actions on several appeals identify the same concerns regarding the County's erosion control plans. [37] In these appeals, the Commission found that the County had not adequately addressed water quality protection due, in part, to the lack of specific requirements for erosion control plans required under the LCP. In appeal A-3-SLO-98-061, the Commission found that the final design of drainage plans, required to address drainage of runoff into a marsh area, had not yet been submitted. This information is required to determine if the locally required modifications to the originally proposed drainage facilities effectively address the potential for site drainage to cause erosion into the Morro Bay Estuary.

In appeal A-3-SLO-93-113, the Commission found that the erosion and sedimentation control plans required by the County to address runoff into Santa Rosa Creek did not specify measures for the control of polluted runoff. It also did not identify appropriate best management practices (BMPs) that would ensure the protection of water quality in Santa Rosa Creek. The Commission also found that while the County required runoff from the proposed project to be routed directly into Santa Rosa creek, it did not evaluate the impacts on water quality from runoff during construction or from the cumulative effects from runoff from streets, parking areas, and lawns which would be directed into the creek under the proposed project.

In the third appeal (A-3-SLO-99-050), the Commission again raised the adequacy of the erosion control and runoff plans. The Commission found that final drainage plans had not been submitted, and that the existing record had few details concerning the existing drainage situation and the effect, if any, of the proposed development on adjacent properties and the potential for increased erosion. On appeal, the Commission required final drainage and erosion control plans to ensure that erosion and runoff would be adequately managed. Requirements included that erosion on-site be controlled to avoid adverse impacts; specified temporary erosion control measures to be used; required permanent measures installed to direct runoff to the street, avoiding slopes, bluffs, and beach areas; a site plan showing the location of erosion control measures; and a schedule for installation of those measures.

Review of the County's actions shows a number of examples where water quality impacts were not addressed for projects that raise water quality concerns, particularly concerns with runoff after construction. Examples include approval for grading for an access road without requiring an erosion control plan, and a number of single family residences.[38] These projects are examples where the LCP requirements for erosion control plans may not be sufficient to fully protect water quality and marine resources.

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[36] Tim Tomolson, County Engineering Dept. Pers comm. 9/28/00.
[37] A-3-SLO-93-113; A-3-SLO-98-061; A-3-SLO-99-050.
[38] FLANs 3-SLO-93-075; 3-SLO-98-136; 4-SLO-90-290; 3-SLO-92-96; 3-SLO-92-105; 3-SLO-93-20; 3-SLO-93-24; 3-SLO-93-28; 3-SLO-94-84; 3-SLO-94-129; 3-SLO-94-139; 3-SLO-94-140; 3-SLO-95-122; 3-SLO-95-142; 3-SLO-96-015; 3-SLO-96-63

The County has addressed runoff from industrial developments as well. Of the 27 permits the County issued for industrial development between 1988 and 1998, many of the projects authorized oil spill clean up or improved spill containment areas. Other projects approved were for activities to prevent future degradation of water resources by conducting maintenance activities on existing facilities and pipelines. Due to the nature of the projects, the County's actions will help protect water quality. For future development, lands zoned for industrial uses are very limited in the County. The primary areas for industrial use are the existing Chevron facilities in the Estero area and the Santa Maria facility in the South County. Revision and upgrading of policies on erosion control plans will also contribute to improved runoff control from industrial sites.

Siting of New Development: In addition to the use of sedimentation and erosion control plans, the LCP also addresses water quality issues by restricting development on steep slopes. As noted above, development on steeper slopes significantly increases the potential for nonpoint source pollution through increased erosion, sedimentation and elevated runoff levels. Watershed Policy 7 and Ordinance 23.05.034 do not allow grading for new development on slopes greater than 20%. However, the policy and ordinances identify numerous exceptions to this policy, including allowing grading on steeper slopes for development of existing residential lots where a residence could not be sited on slopes under 20%. In authorizing exceptions for grading on slopes between 20-30%, the County must consider "the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation" There must also be no other feasible method of establishing an allowable use on the site without such grading (Watershed Policy 7; Ordinance 23.05.034(b)).

A number of standards in the area plans reiterate restrictions of development on steep slopes. For rural lands in the North Coast adjacent to Cambria, the area plan prohibits any *structural* development on slopes greater than 20%. However, in the Lodge Hill area, the area plan allows development on slope of 25% or greater with a minor use permit. The Estero area plan has several standards regarding development on steep slopes: for parcels in the GSA and SRA combining designations, and *outside* of the urban reserve or village reserve lines, the area plan requires that new building sites and driveways be located on slopes under 30%. In addition, the area plan prohibits development on slopes over 30% in the Morro Palisades hillside area. The San Luis Bay and South County planning area plans do not specifically restrict development based on slope percentage, but require that new development be concentrated moderate slopes.

Based on available data from the County's actions, the County has approved development on at least 165 parcels with slopes of 20% or greater, including granting 38 variances for grading on slopes greater than 30%. The County has also granted an additional 61 permits for development on "steeply sloping" parcels.[39] While these parcels raise the most concerns regarding water quality impacts from grading, construction, and on-going runoff after construction, another 194 parcels are identified as having a combination of gently or moderate to steep slopes.

[39] These numbers may underestimate the amount of development on steep slopes. Information on slopes for parcels, whether represented as percent slope or description of "flat", "gently sloping", "moderate to steep", etc, is evident only on approximately half of the local notices received by the Commission.

From a review of a sample of local permits for development on slopes greater than 20%, it appears that the County does not specifically address the criteria required under Watershed Policy 7 in findings. Typical findings on permits usually stated that the project was designed to minimize the area disturbed and that the topography was "considered" in the design and siting of "physical improvements". While minimizing the area of site disturbance can greatly reduce erosion, the County generally does not discuss the other factors identified in Watershed Policy 7, including specific measures to reduce erosion and sedimentation. Therefore, it is unclear how effectively the County is addressing erosion and runoff concerns.

For the variances granted, the County generally required sedimentation and/or drainage plans to address erosion issues. The County found that without granting the variance, there was no feasible alternative to develop the site. However, as discussed above, requiring development of sedimentation and drainage plans alone may not fully address water quality issues if such plans lack specific standards, requirements to use best management practices, and if they do not provide for long-term monitoring.

A related issue regarding the siting of new development and adequate protection of water quality centers on where the County has created new parcels for future development through subdivisions. As reported in Chapter 2, the County has approved an estimated 32 permits for new subdivisions between certification of the LCP in 1988 and 1998, authorizing over 438 new lots. While the subdivision permits themselves do not necessarily include grading and actual development of the site, the locations approved for new development can have important consequences for future development and for water quality issues. As parcels of land decrease in size through the subdivisions, the ability to site new development with minimal impacts to resources decreases. If new lots are created on steep slopes or adjacent to streams, development of those sites may lead to greater impacts on water quality through increased erosion and runoff.

Two subdivision permits included grading on slopes over 30%, for which the County granted variances. Under FLAN 3-SLO-97-022, a subdivision above Avila Beach, the County found that the proposed development was covered by an existing Master Development Plan, and found that the variance was necessary for the "preservation of the property rights of the applicant". In FLAN 3-SLO-96-120, the County states the variance allows "for greater development than would otherwise be allowed on the site." As discussed in Chapter 2, this commercial subdivision project is currently in litigation, partly concerning the availability of water to supply the project. Although each of these projects raise a variety of concerns, with respect to water quality protection, neither action included findings on how the newly created lots would result in siting development that would avoid impacts to water quality on these steep slopes. Through both the approvals of development on steep slopes and the creation of new lots in steep slopes, it appears that the County has authorized development in a manner that will increase the potential for erosion and runoff, thus contributing to potential water quality degradation.

Controlling Post-Construction Runoff: One of the main areas where the LCP needs to be updated is in addressing ongoing runoff from development. All development, regardless of whether it requires an erosion or grading plan under the existing LCP or the modifications

proposed by the County, has the potential to affect water quality through post-construction runoff. As discussed above, the County has approved a number of projects without requiring a sedimentation/erosion control plan. While these projects may be in conformance with existing LCP policies, they still have a potential to affect water quality. Therefore, all new development should incorporate measures to address ongoing nonpoint source pollution, regardless of location, type or size of the development.

Updating LCP Policies to Incorporate New Knowledge: While the LCP's grading and drainage ordinance was amended in the early and mid 1990s, the State has recently adopted the *Plan for California's Nonpoint Source Pollution Control Program*, detailing a variety of management measures to further improve protection of water quality. The management measures from that plan which address nonpoint source pollution from urban development are identified in Appendix D . This appendix also includes a preliminary review of the corresponding LCP policies and ordinances that currently implement each management measure. These management measures can be generally identified as: 1) preventing and reducing erosion; 2) preventing degradation to areas important to water quality functions, particularly riparian areas; 3) limiting impervious surfaces; 4) limiting discharge of toxic materials and/or nutrients; and 5) addressing runoff from existing developed areas, including runoff from roads and bridges. The management measures address nonpoint source pollution concerns during the siting phase, construction phase, and post-development.

Commission staff notes that the County's LCP is among the strongest in the state with respect to erosion control policies. Nonetheless, the LCP would benefit from revisions to incorporate new information and knowledge about effective best management practices for protecting water quality. For example, while the LCP grading ordinance focuses on methods to control sedimentation, it has few policies to address other sources of nonpoint source pollution from urban development, such as toxins, pesticides, and oils and grease, or the ongoing runoff concerns after construction of the project. Much has been learned since LCP certification about how to manage these pollutants in an urban setting. Many of the management measures in the *Plan for California's Nonpoint Source Pollution Control Program* focus on these other sources of nonpoint source pollution. By incorporating policies and other mechanisms into the LCP to implement these management measures, as part of a comprehensive water quality component discussed in Preliminary Recommendation 3-7 below, the County can improve protection of water quality and marine resources. In addition, staff is recommending minor changes to some existing language, discussed below; these modifications are again to reflect more current knowledge and improve existing policies.

Consistency Analysis: Coastal Act policies 30230 and 30231 require that marine resources and the quality of coastal waters be protected. As the Commission found in adopting the State plan for controlling runoff, urban runoff is a major source of pollution adversely affecting coastal waters and recreational use of the shoreline. As such, urban runoff needs to be controlled in order to ensure protection of coastal waters. Water quality studies for San Luis Obispo County, both before and since certification of the LCP, indicate that urban runoff is contributing to degradation of water resources (see Appendix C). As discussed above, the implementation of the County's LCP is no longer adequate to ensure protection of water quality.

Preliminary Policy Alternatives:

Recent efforts by the County propose revisions to the LCP which may improve control of polluted runoff. While these proposed LCP amendments have not yet been reviewed by the Commission they illustrate some alternative ways to improve control of urban runoff.

Preliminary Recommendation 3-3: *Area Plan Updates*. The proposed update of the North Coast Area Plan (January 2000) includes a variety of policies including: Policies to prohibit point-source discharges into the marine environment; Rural Area Program to designate Areas of Special Biological Significance (ASBS) for protection from development of impacts of any future wastewater outfall structure(s); Improved controls on land divisions and lot line adjustments to minimize the impact of water extraction from riparian creek areas for non-agricultural uses and policies and programs specific to Lodge Hill. The proposed revisions to the North Coast Area Plan Standards offer the opportunity to strengthen the water quality protection provisions of the LCP if expanded to address the issues raised through this review.

Preliminary Recommendation 3-4: *Expanding Erosion Control Studies*. The County has targeted problems in the Lodge Hill area and proposes to implement recommendations of the 1999 erosion control study. These recommendations generally focus on 1) paving roads, and 2) developing a comprehensive master plan for the community. The master plan should design for buildout of the community and incorporate the street drainage network into the plan. The report notes that until such a plan is developed, "critical lots should be identified that could provide storm water infrastructure, or are at extreme risk due to their location in a drainage path. The County could target these lots for purchase in order to development a system for storm water management ...."[40] In general, implementing the study's recommendations could reduce erosion and sedimentation, and improve water quality in Lodge Hill. The comprehensive plan, though, should also address drainage issues from road paving, and should encourage infiltration of water and maintenance of the natural flow regime, to the extent feasible, by encouraging dispersal of sheet flow from roads into natural vegetated areas. The County should also incorporate measures to site development to retain forest cover.

Preliminary Recommendation 3-5: *Address Post-Construction Runoff*. While the County's pending grading ordinance revision proposes some new and revised measures to improve the management of erosion, sedimentation, and runoff, it does not fully address all the potential sources of nonpoint source pollution from new development as identified through the management measures in Appendix D, including measures to address post-construction runoff. The Model Urban Runoff Program (MURP), a joint program among the Commission, Monterey Bay Sanctuary, the Regional Water Board, and the Cities of Monterey and Santa Cruz, has developed a checklist of three questions to help coastal planners identify and mitigate water quality impacts of proposed development (see Table 3-2, below). One alternative for improving management of polluted runoff is to incorporate this tool into the planning process to identify when additional measures must be taken to fully address water quality impacts and to trigger

[40] USDA Natural Resources Conservation Service. February, 1999. *Cambria Erosion and Sediment Study; Lodge Hill Study Area; Cambria, California.* pg. 8

additional measures if review of the checklists identifies potential water degradation from the proposed development. The MURP has also developed cost-effective mechanisms to address many of the management measures identified in Appendix D.

Table 3-2: Water Quality Checklist

1. Would the proposal result in changes in soil infiltration rates, drainage patterns, or the rate and amount of surface runoff?
2. Would the proposal result in discharge into surface waters or wetlands or other alteration of surface water/wetland quality (e.g., temperature, dissolved oxygen, or turbidity)?
3. Would the proposal result in impacts to groundwater quality?

If the proposed project raises water quality issues based on the above questions, or other review, best management practices (BMPs) could be incorporated into the project design to address post-construction runoff. Assuring the appropriate design goals is critical for the successful function of BMPs in removing pollutants in stormwater. The majority of runoff is generated from small storms. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.[41]

The Commission has previously found that sizing post-construction BMPs to accommodate the runoff from the 85th percentile storm runoff is often appropriate to address runoff concerns. Sizing BMP capacity beyond this standard leads to insignificant increases in pollutants removal, and hence water quality protection, relative to the additional costs. Therefore, one alternative in addressing post-construction runoff is to design post-construction structural BMPs, with case-by-case considerations, to treat, infiltrate or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event[42] for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs.

The "85th percentile, 24-hr" design goal is applicable to volume-based BMPs such as detention and infiltration basins, wet ponds, and constructed wetlands. The "85th percentile, 1-hr" design goal (with an appropriate safety factor[43]) is applicable to flow-based BMPs that remove pollutants primarily through filtering and limited settling. These include media filters such as filter inserts in catch basins, oil/water separators, and biofilters such as vegetated filter strips and grassy swales. However, if swales are constructed primarily to contain and then induce infiltration, they should be subject to the "85th percentile, 24-hr" design goal.

[41] ASCE/WEF, 1998. Urban Runoff Quality Management. WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.

[42] Considering the long-run records of local storm events in a 24-hour period, the 85th percentile event would be larger than or equal to 85% of the storms. The 85th percentile storm can be determined by reviewing local precipitation data or relying on estimates by other regulatory agencies. For example, the Los Angeles Regional Water Quality Control Board has determined that 0.75 inch is an adequate estimate of the 85th percentile, 24-hour storm event for typical municipal land uses within its jurisdiction.

[43] The San Diego RWQCB has adopted a safety factor of "2" for their flow-based BMP design standard. This means doubling the runoff treatment capacity necessary to handle the local 85th percentile hourly rainfall intensity. The safety factor is meant to deal with the reduced efficiency that occurs with flow-through BMPs that are not adequately maintained.

Preliminary Recommendation 3-6: *Adopt Policies and Ordinances to fully implement Management Measures from the State NPS Plan*: While the existing LCP, and above alternatives, address primarily issues of erosion, sedimentation, and water runoff from new development, the state has recognized additional sources of nonpoint source pollution through the management measures detailed in the State's nonpoint source pollution control plan. For example, mechanisms to address runoff from existing development and water degradation from residential septic systems are detailed in Appendix D. Implementation of these measures, and other preliminary measures identified in Appendix D would further improve the County's protection of water and marine resources.

Preliminary Recommendation 3-7: *Develop watershed plans for each water basin and/or planning area to address cumulative NPS pollution*: As the Commission found in reviewing the Avila Beach Specific Plan, water quality cannot be protected without managing inland development and land uses. The Commission recommended that the County "coordinate the development and implementation of a comprehensive watershed management program designed to protect the water quality of the entire watershed of all coastal creeks and streams throughout the planning area." This recommendation should be carried out throughout the County's coastal zone, especially for drainages that have a documented water quality problem. Implementation of this alternative will address the management measures focusing on existing developed areas. The program should be designed to manage changes in land use and development, support riparian corridor restoration, and encourage the implementation of best management practices throughout the planning area's watersheds. As recommended by the Commission, the watershed program should:

- identify specific measures to minimize the cumulative impact of new development on the watershed and avoids the alteration of natural drainage patterns;
- Assess the cumulative impacts of development on water quality and hydrology in order to designate areas to further emphasize on site management of runoff.
- include a component which identifies which areas of the watershed which, if restored, could improve water quality;
- include a public participation component;
- integrate agriculture management measures including developing watershed specific nutrient and pesticide management programs
- and include a monitoring component, including to evaluate the effectiveness of BMPs used to control polluted runoff.

This approach should be applied throughout the coastal zone. To better facilitate the protection of marine resources and water quality, the existing LCP watershed chapter could be expanded to develop a comprehensive water quality component of the LCP. Policies, standards, and programs which address Water Quality issues, including addressing nonpoint source pollution from agricultural practices (as discussed in section C.1), urban and rural development, marinas and boating areas (see section C.3, below), water quality measures related to groundwater protection (see Chapter 2), and water quality measures related to the protection of hydrologic

systems and riparian habitat (see Chapter 4) could be consolidated to provide an integrated ,watershed-based approach to addressing water quality. The Water Quality chapter should incorporate the management measures, and mechanisms to implement those management measures, in the *Plan for California's Nonpoint Source Pollution Control Program.*

Preliminary Recommendation 3-8: *Modify criteria defining "wet season" in LCP to reflect new information:* The current LCP requires an erosion and sedimentation plan when grading occurs between October 15 and April 15. Based on information from the Commission's Model Urban Runoff Program, the rainy season should begin on October 1. References in the LCP, and proposed new grading ordinance, should be updated to reflect this change.

Preliminary Recommendation 3-9: *Modify criteria citing watercourses on USGS maps:* One requirement for sedimentation and erosion control plans is land activities are "within 100 feet of a watercourse shown on current 7 ½ minute USGS quad map". Staff recommends adding the following additional criteria, any one of which would define a natural watercourse or drainage system: a) supports fish, b) has significant flow 30 days after last significant storm, or c) has a channel, free of soil and debris.

Preliminary Recommendation 3-10: Incorporate performance standards and monitoring requirements as part of erosion control/ sedimentation plans.

Preliminary Recommendation 3-11: Prohibit subdivisions on slopes over 30%.

Preliminary Recommendation 3-12: Modify Drainage Plan ordinance (23.05.042) or revise grading ordinance to incorporate requirement for a Drainage and Pollution Control plan (D/PC plan) ordinance that requires development to integrate BMPs into site design or prepare a D/PC plan that identifies BMPs/management measures that will mitigate potential NPS impacts and achieve the identified site design goals. (See Table D-4, Appendix D for preliminary proposed language.)

C. 3. Water Quality Impacts from Recreational Boating

The LCP should be updated to adequately address polluted runoff from marinas and recreational boating areas to reflect new information and management measures.

Overview: As discussed under Chapter 11, San Luis Obispo County has three marinas and boating areas: Port San Luis, San Simeon Harbor, and Leffingwell Landing. Marinas, boat yards and boating areas can impact water quality not only during construction activities, but also through ongoing boating uses. For example, water quality may become degraded from pollutants being discharged from boats, pollutants washed from docks in stormwater runoff, or from pollutants generated from boat maintenance activities on land and in water.[44] While comprehensive water quality monitoring has not been done for the boating areas in San Luis

[44] State Water Resources Control Board and California Coastal Commission. January 2000. Plan for California's Nonpoint Source Pollution Control Program.

Obispo County, several studies indicate that boating activities contribute to water quality degradation.[45,46]

Since certification of the San Luis Obispo LCP, no major new boating facilities have been authorized; however, the continued use and/or expansion of the existing boating areas is anticipated in the LCP. For Port San Luis, the San Luis Bay Area Plan identifies coastal dependent uses, including commercial fishing, sport fishing, and recreational boating, as priority uses for the Harbor. In addition, the area plan details a number of goals for Port San Luis, including improving facilities for fishing and boating, enlarging a boat haul-out and repair area, enlarging the area for harbor operations, and providing a storage area for commercial fishermen and recreational boats. These improvements will include major renovation and repair of existing structures. Development plans for Port San Luis also allow for future offshore oil support facilities. San Simeon Harbor is limited to a small-scale recreational boating areas, boat-launching ramp, and parking area (Boating Policy 11). Leffingwell Landing provides a ramp for boat launches. Both facilities are in the North Coast. The LCP does not identify any planned expansions for these facilities.

LCP Implementation: Coastal plan policies state that where feasible, oceanfront recreational development should give priority to boat ramps, dry storage, and other recreational boating facilities, if consistent with policies of the Coastal Act (Boating Policy #2). However, the LCP has few specific policies addressing water quality issues from these boating areas.

LCP Ordinance 23.07.178 does require that "development shall be sited and designed to mitigate impacts that may have adverse effects upon the [marine] habitat, or that would be incompatible with the continuation of such habitat areas. In addition, construction activities to expand harbor and boating areas must comply with the watershed policies in the LCP which protect water quality. These policies, discussed in more detail in Section C.2 (Urban Development), include clearing and grading during the non-rainy season to minimize erosion and sedimentation, implementing slope and erosion control measures, and ensuring that drainage does not increase erosion (Watershed Policies 8, 9, 10).

The San Luis Bay area plan states that grading at Harbor Terrace, within Port San Luis, should be designed to minimize potential discharges of sediment and pollutants into the bay. Disturbed areas should also be reseeded. For potential offshore oil support facilities, development plans must include an assessment of immediate and cumulative impact assessment on water quality and development of an oil contingency plan. The project location, design, and county requirements must mitigate the adverse environmental impacts to the maximum extent feasible (Boating Policy 7).

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[45] Dept. of Parks and Recreation. June, 1988. *Morro Bay State Park General Plan.*
[46] Downing J, Fairey R, Roberts C, Landrau E, Clark R, Hunt JW, Anderson BS, Phillips BM, Wilson C, La Caro F, Kapahi G, Worcester K, Stephenson M, Puckett HM. 1998. *Chemical and biological measures of sediment quality in the Central Coast Region.* California State Water Resources Control Board. Sacramento, CA.

There have been only a few cases to illustrate the County's implementation of the LCP in this area. Since 1988, the County has approved only three projects involving marinas and boating areas.[47] In two cases, the County authorized extensions to existing boat ramps, one adjacent to Leffingwell Creek.[48] The third project involved expansion to an existing sport launch building, including a sport launch, retail sales, water taxi, and boat equipment and repair facility.[49] In acting on these permits, the County addresses water quality impacts from construction in some cases. As part of one of the projects[50], the County required that construction activities: 1) occur during the dry season and low tides, 2) minimize earthwork, and 3) that sand and soil excavations are moved away from the surfzone and wetland areas of Leffingwell Creek each day. These practices help reduce erosion and sedimentation into the Creek and surf zone. It is unclear whether similar approaches were taken in the two other permits. However, because of the small number of projects, the County actions do not raise significant inconsistencies with Coastal Act policies.

The statewide plan for nonpoint source pollution discusses issues regarding boating areas and contains management measures to address them, listed in Table 3- 3 (next page). While the existing LCP policies address some of these pollution sources, it does not have policies or programs to address others. It is important that the LCP contain the most current standards and management practices in order to improve control of nonpoint source pollution from boating areas and protect water quality.

The LCP currently addresses several of the management measures identified in Table 3-3. Management Measure 2 is designed to protect aquatic resources. LCP Ordinance 23.07.178 requires that development within or adjacent to marine habitats be sited and designed to mitigate impacts on kelp beds, offshore rocks, reefs, and intertidal areas. The LCP also partially addresses the concerns of polluted runoff from maintenance areas (management measure 3) through controls on grading and requiring erosion control plans. However, as discussed previously, these erosion control plans under the current LCP may not be adequate to fully address polluted runoff.

The LCP also does not directly address other sources of pollution to marine waters, including pollutants discharged from boats, such as sewage, oil, and fuel, and pollutants generated from boat maintenance activities on land or in water. The development authorized in FLAN 3-SLO-93-143 authorizes uses such as a water taxi and boat repair operations which can contribute pollutants such as oils, cleaners, solvents, and paint into coastal waters. From review of the County staff report, the County's authorization did not appear to contain specific measures to ensure that water pollution is avoided or minimized from these activities. Updating the LCP policies to address these sources of nonpoint source pollution through the regulatory process, where feasible, is important in order to provide adequate guidance for future projects.

[47] FLANs 3-SLO-91-101; 3-SLO-90-210; 3-SLO-95-143
[48] FLAN 3-SLO-91-101 and 3-SLO-90-210
[49] FLAN 3-SLO-95-143
[50] FLAN 3-SLO-91-101

Table 3-3: Management Measures for Marinas and Boating Areas:

1. Assess water quality as part of marina siting and design.
2. Site and design marinas to ensure flushing or recycling of water through the site.
3. Site and design marinas to protect against adverse impacts on aquatic resources, including shellfish, wetlands, submerged aquatic vegetation, riparian vegetation, or other important aquatic habitat areas as designated by local, state, or federal governments.
4. Where shoreline or streambank stabilization is required to protect existing structures from damage by erosion, vegetative methods of stabilization should be considered over structural methods.
5. Implement effective runoff control strategies, including pollution prevention activities and proper design of hull maintenance areas. Reduce the average annual loadings of total suspended solids (TSS) in runoff from hull maintenance areas by 80 percent.
6. Design fuel stations so spills can be contained and easily cleaned, and ensure fueling stations have spill containment equipment and spill contingency plans.
7. Install pumpout, dump station, and restroom facilities where needed at new and expanding marinas to reduce release of sewage to surface waters. Design these facilities to allow ease of access and post signage to promote use by the boating public.
8. Properly dispose of solid wastes produced by operation, cleaning, maintenance, and repair of boats to prevent entry of solid wastes to surface waters.
9. Promote sound fish waste management through fish-cleaning restrictions, public education, and proper disposal of fish waste.
10. Provide and maintain appropriate storage, transfer, containment, and disposal facilities for liquid material (e.g. new and used oil, solvents, antifreeze and paints), and encourage recycling of such materials.
11. Reduce amount of fuel and oil from boat bilges and fuel tank air vents entering marina and surface waters.
12. Perform in-water hull cleaning operations to minimize the release of cleaners, solvents, and paint to surface waters.
13. Ensure that sewage pumpout facilities are maintained in operational condition and encourage the use of sewage pumpout facilities.
14. Where necessary, restrict boating activities to decrease turbidity and physical destruction of shallow water habitat.
15. Public education, outreach, and training programs should be instituted for boaters, as well as marina owners and operators, to prevent improper disposal of polluting material.

While the case discussed above required regulatory review from the County, in many other cases, the sources of nonpoint source pollution occur from ongoing uses of existing areas and from activities that often do not require regulatory review from the County. As a result, many of the measures to protect water quality will need to focus on programs and educational efforts. Providing for these non-regulatory and educational programs in the LCP, as well the regulatory requirements, may improve the County's ability to manage polluted runoff from boating areas and better protect the water quality of coastal waters.

Consistency Analysis: Section 30230 of the Coastal Act requires that marine resources be protected. Because of their location, development and operation of harbor and boating facilities have the potential to significantly degrade marine waters. As noted, the County has taken few actions that implemented boating and harbor related policies of the LCP. However, in the few examples evaluated, the County's application of LCP policies to address potential water quality impacts was somewhat uneven. More important, the LCP policies and standards, certified in the late 1980s, do not reflect more up to date management measures to address this source of pollution to coastal waters. As such, the Commission believes that the LCP should be updated in order to fully comply with Section 30230 of the Coastal Act.

Preliminary Policy Alternatives: To bring the LCP into compliance with the new statewide water quality plan and to achieve improved management measures, the LCP will need a mix of regulatory actions (policies and ordinances implementing some of the management measures) and education and programs to implement others.

Preliminary Recommendation 3-13: If overall runoff policies are revised, then new standards could be implemented when facilities are modified or expanded. Relevant management measures from Appendix D to update the LCP could be incorporated as tools to manage sources of pollution.

Also, programs could be developed to address ongoing operations of harbors and boating facilities. Many of the sources of water quality degradation occur from ongoing activities. Education programs incorporating best management practices for waste disposal and maintenance activities can help protect water quality.

CHAPTER 4: ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA)

A. Policy Framework

1. Coastal Act: One of the primary objectives of the California Coastal Act is to preserve, protect, and enhance environmentally sensitive habitat areas (ESHA). Section 30107.5 of the Coastal Act defines an "Environmentally sensitive area" as:

> *Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

The central provisions of Chapter 3 of the Coastal Act aimed at protecting ESHA include Sections 30240, 30230, 30231, and 30250a:

- Section 30240 prohibits any significant disruption of habitat values, and limits development within ESHA to uses that are dependent on the resources. It also requires that development adjacent to ESHA to be sited and designed to prevent significant degradation, and be compatible with the continuance of the habitat.

- Section 30230 applies to marine habitats, and calls for the maintenance, enhancement and restoration (where feasible) of marine resources, with special emphasis on areas and species of special biological or economic significance. Pursuant to this section, all uses of the marine environment must sustain the biological productivity of coastal waters, and maintain healthy populations of all marine organisms.

- Section 30231 provides that the biological productivity of coastal waters, streams, wetlands, estuaries, and lakes must be maintained and, where feasible, restored. This is to be achieved by, among other means: minimizing adverse effects of wastewater discharges and entrainment; controlling runoff; preventing depletion of groundwater supplies and substantial interference with surface water flow; encouraging wastewater reclamation; maintaining natural buffer areas that protect riparian habitats; and minimizing alteration of natural streams.

- Section 30250a directs new residential, commercial, or industrial development to existing developed areas. Where developed areas can not accommodate new development, is to be located in other areas where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Recognizing that these policies have the potential to conflict with other goals of the Coastal Act, such as maximizing public access and recreation opportunities, increasing recreational boating, and protecting the public from flooding hazards, the Coastal Act provides the following guidance:

- The provision of maximum public access and recreation opportunities must be consistent with protecting natural resource areas from overuse and must take into account the fragility of natural resources (Sections 30210 and 30214).

- The diking, filling, or dredging of coastal waters is limited to specific purposes, and permitted only where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects (Section 30233).

- The alteration of rivers and streams are limited to necessary water supply, flood control, and habitat restoration projects, and must incorporate the best mitigation measures feasible. (Section 30236)

2. LCP

The programs, policies, ordinances, and standards of the San Luis Obispo County LCP intended to carry out these Coastal Act policies can be found in the Coastal Plan Policies document, LCP Ordinances (including the Coastal Zone Land Use Ordinance or CZLUO), and the four Area Plans.

In general, Chapter 6 of the Coastal Plan Policies Document provides the foundation of the LCP's habitat protection provisions. These ESHA policies fall into five general categories: Policies 1-4, applicable to all ESHA areas; Policies 5-17 regarding wetlands; Policies 18-26 addressing coastal streams and riparian vegetation; Policies 27-34 concerning terrestrial Habitats; and Policies 36-40 protecting Marine Habitats.

The Coastal Zone Land Use Ordinance (CZLUO) implements most of these ESHA Policies are implemented (others a classified as Standards or Programs). CZLUO Section 23.07.170 is applicable to all ESHA areas. Section 23.07.172 deals specifically with wetlands, while sections 23.07.174 and 23.07.176 address streams/riparian habitats and terrestrial habitats, respectively.

Finally, the Planning Area Standards of the four Area Plans contain specific habitat protection provisions designed to address the particular habitat needs and characteristics of distinct geographic regions.

All of these ESHA policies and regulations are integrally linked to the "Official Maps", reduced versions of which can be found in each of the area plans. These include "Combining Designation" maps that delineate environmentally sensitive habitat areas under the classifications of terrestrial habitats (TH), coastal streams and riparian vegetation (SRV), wetlands (WET), and marine habitats (MH). All four of these habitat types fall under the broader Combining Designation category of "Sensitive Resource Area" (SRA). The SRA overlay is applied to "areas having high environmental quality and special ecological or educational significance" (Framework for Planning, p. 7-3). Thus, while all ESHA Combining Designation are also SRA's, not all SRA's are ESHA;

the SRA overlay is also applied to scenic lands and important geological features. Sections 23.07.160 – 23.07.166 of the CZLUO regulate new development within SRA's.

B. Background

The San Luis Obispo County coastal zone contains a wide variety of environmentally sensitive habitat areas that provide refuge for numerous rare and endangered native plants and animals. In addition to sustaining unique and important biological resources, these habitats are a significant component of the natural landscape. As discussed elsewhere in this report, the scenic and recreational qualities of these open space areas attract visitors from around the world and enhance the quality of life for County residents.

These habitats are also extremely vulnerable to degradation by development. Population growth and increasing development pressures, combined with the sensitivity of the remaining open space lands, threaten the long-term survival of these significant habitat areas. In an eleven year period since the County assumed permitting authority (between 1988 and 1998), the Commission has received notice of 2481 coastal development permits. Approximately 778 of these permits (31%) involved development on land that has an ESHA Combining Designation overlay. Maps 4-C, D, E, and F plot the location of this development.

These figures represent a conservative estimate of development approved within or adjacent to ESHA in this ten year period. This is due to the fact that the LCP's Combining Designations do not map *all* of the habitats that constitute ESHA under the Coastal Act and LCP. First, sensitive habitat areas appear to have been missed or overlooked during the original mapping effort. Second, several new species and habitat types have been listed as rare, threatened or endangered since the Combining designation Maps were certified in 1988. In addition, the Commission has not received notice of all development approved in the coastal zone, as discussed in Chapter 1 of this report.

1. North Coast Planning Area

The North Coast Planning Area, extending from the Monterey County line in Big Sur to the coastal terrace North of Cayucos, includes a wide array of habitat types. These include Monterey Pine Forests, an ecosystem endemic to the Central Coast; beaches that support populations of Elephant Seals, the Western snowy plover, and other rare and threatened flora and fauna; streams that support important fish species such as the Steelhead trout and Tidewater goby; wetlands that are essential components to the health and biologic productivity of coastal watersheds; grasslands and oak woodlands that are home to raptors, their prey, and numerous types of unique plants, lichens, insects, and other living things; and, intertidal and marine environments that provide habitat for the Brown pelican, Southern sea otter, Gray whale and countless other ocean resources of statewide significance.

As adopted in 1988 and as currently certified, pages 46 and 47 of the North Coast Area Plan identifies and describes in more detail the following habitat types and areas as Sensitive Resource Areas (SRA's):

- the entire shoreline;
- the Monterey Pine Forest;
- San Simeon Creek Lagoon;
- San Simeon Point;
- North Coast Creeks (i.e., portions of Santa Rosa, San Simeon, Pico, Little Pico, Arroyo de la Cruz, and San Carpoforo creeks);
- the 600 acre site at the mouth of Arroyo de la Cruz; and,
- Piedras Blancas Dunes.

2. Estero

The Estero Planning Area contains different, but equally diverse, habitat types. Among the most notable are the Morro Bay Estuary, one of the most important wetland systems of the California Coast, and the surrounding dune/coastal scrub ecosystem that is a host to numerous rare and endangered species including the Morro Bay kangaroo rat, the Morro shoulderband snail, and Morro manzanita. As opposed to rocky coastline and pocket beaches of the North Coast, shoreline habitats within the Estero Bay are primarily comprised of long stretches of sandy beach, such as the Morro Bay sandspit, which provide critical habitat for the Western snowy plover. South of the sandspit to the San Luis Bay Planning Area, the character of the shoreline returns to rocky headlands and steep wave cut bluffs. The coastal terraces of this area support stands of relic native grasslands.

The Combining Designations chapter of the Estero Area Plan, and its accompanying maps, identify the following portions of the planning area as Sensitive Resource Areas:[1]

- undeveloped ocean shoreline and the Peaks Area;[2]
- the Morro Bay wetland and sand spit;
- the Morro Bay shoreline, including Sweet Springs marsh, Cuesta-by-the-Sea marsh, the Los Osos Estuary, the Baywood Peninsula, and the Fairbanks property;

[1] For a description of these areas please refer to pages 7-1 through 7-4 of the Estero Area Plan.
[2] The LCP's designation of these areas as Sensitive Resource Areas is primarily related to their scenic quality rather than habitat value.

- Morro Rock Ecological Preserve;
- Morro Bay Kangaroo Rat Habitat; Montana de Oro Grassland; Coon Creek; Los Osos Oak Forest;
- Los Osos Creek;
- Eto and Warden Lakes;
- the Whale Rock reservoir watershed; and,
- the Camp San Luis Obispo Relict Grasslands.

3. San Luis Bay

The north end of the San Luis Bay Planning Area, between Port San Luis and Montana de Oro State Park, includes several unique natural plant communities. These include a Bishop Pine forest, one of the largest conifer forests in the County; the Coast Live Oak and grassland habitats of the Irish Hills; and the coastal terrace. At the south end of the planning area is the northern limit of the Guadalupe/Nipomo Dunes complex, one of the largest and most important dune habitats in Coastal California.

Sensitive Resource Areas identified by Chapter 7 of the San Luis Bay Area Plan and the Combining Designation Maps include:[3]

- the coastal terrace of the Irish Hills;
- upper Diablo Canyon;
- the stand of Bishop Pines on the ridge and hillsides south of Coon Creek.;
- the Ruda Ranch area of the Irish Hills;
- Ontario Ridge;
- the Oceano lagoon, dunes and beach area;
- Pismo marsh;
- San Luis Creek Estuary; and,
- the Arroyo Grande Creek.

[3] For a description of these areas please refer to pages 7-5 through 7-6 of the San Luis Bay Area Plan

4. South County

The sensitive habitats contained in the South County Planning Area are generally associated with the Guadalupe/Nipomo Dunes Complex, as well as various lakes, rivers and lagoons. The Sensitive Resource Area identified by Chapter 7 of the South County Area Plan include:[4]

- the Nipomo Dunes;
- Dune Lakes;
- Oso Flaco Lakes;
- Black Lake Canyon; and,
- Santa Maria River

Preliminary LCP Implementation Issues

C.1 Identifying ESHA

Overview: One of the first and most important steps in the development review process is identifying the presence of ESHA within or adjacent to a proposed development site. As previously noted, the LCP uses a map-based system to differentiate areas where new development needs to be reviewed for conformance with the LCP provisions protecting ESHA. The primary problem with this approach is that where the LCP maps are outdated or inaccurate, the presence of sensitive habitats sensitive habitats on a development site may not be identified. As a result, the development may be designed and approved in a manner that does not protect the habitat area in a manner that is consistent with Coastal Act and LCP objectives.

LCP Provisions: An "Environmentally sensitive area" is defined by Section 30107.5 of the Coastal Act as:

> *any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

In comparison, the LCP (CZLUO Section 23.11.030) defines "Environmentally Sensitive Habitat" as:

> *A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special*

[4] For a description of these areas please refer to pages 37 through 38 of the South County Area Plan.

> *nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. They include wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations.* (Emphasis added)

The references to "Sensitive Resource Area" and "Land Use Element combining designation" contained in the County definition reflect the map-based approach to habitat protection that is a fundamental component of the LCP's organization. Essentially, the LCP uses "combing designations" as geographic overlays to land use designations that identify particular resources or constraints that need to be considered during development review. As described on page 7-1 of the Framework for Planning:

> *Combining designations identify areas with characteristics that are either of public value or are hazardous to the public. The special location, terrain, man-made features, plants or animals of these areas create a need for more careful project review to protect those characteristics, or to protect public health, safety and welfare. Combining designations are established to achieve the following:*

...to identify sensitive coastal resources such as archaeological sensitive areas, wetlands, coastal streams, and habitats.

The Combining Designation applied to ESHA is the Sensitive Resource Area (SRA) combining designation. As described on page 7-3 of the Framework for Planning the SRA overlay is:

> *Applied to areas having environmental quality and special ecological or educational significance. The SRA includes four types of Environmentally Sensitive Habitats: Wetlands, Coastal Streams and Riparian Vegetation, Terrestrial Habitats and Marine Habitats.*
>
> *WET* *Wetlands: Applied to lands that may be covered by shallow water, including saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.*
>
> *SRV* *Coastal Streams and Riparian Vegetation: Applied to stream courses (those shown on USGS 7.5 quadrangle maps) and adjoining riparian vegetation.*
>
> *TH* *Terrestrial Habitats: Applied to sensitive plant or animal habitats within land areas.*
>
> *MH* *Marine Habitats: Applied to sensitive habitat areas for marine fish, mammals and birds.*

The application of these combining designations, and the development standards that accompany them, can be interpreted as applying only to those areas that have been mapped as such. Similar to the LCP's definition of ESHA, the CZLUO defines Sensitive Coastal Resource Area as:

> *...those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity, pursuant to Section 23.01.043c(3) of this title.*

CZLUO Section 23.01.043c(3) describes Sensitive Coastal Resource Areas as including:

> *(i) Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats in the Local Coastal Plan. ...*

The consideration of streams as ESHA is similarly limited to a mapped based system, by virtue of the definition of streams contained in Appendix C of the Coastal Plan Policies. This appendix defines a stream as "a natural watercourse as designated by a solid and three dot symbol shown on the United States Geologic Survey map most recently published...."

In order to account for the changes in species and habitat status over time, such a mapped base system needs to be continually updated to reflect current on-the-ground conditions. The LCP's combining designation maps have not, however, been updated since January 1989. As a result, changed circumstances and new information regarding ESHA types and locations are not reflected in the LCP maps that dictate when and where habitat protection provisions apply to new development.

That is not to say that the LCP habitat maps do not provide valuable sources of information. Indeed, the sensitive habitat Combining Designations provide a useful tool for identifying many of the sensitive habitat areas where special considerations must be applied to development proposals. Nevertheless, problems occur where the maps do not accurately reflect on the ground resources, and as a result, such resources are overlooked or not granted the protection they deserve under the Coastal Act.

As previously described, there has been an increase in the number of species that are considered as threatened and endangered under the state and federal Endangered Species Acts since LCP certification. The LCP maps that designate ESHA have not, however, been updated to include the habitats of these newly listed species. In addition, there have been changes in species location and status, which in some cases render the Combining Designation maps incomplete in their depiction of ESHA.

The incomplete delineation of ESHA provided by the LCP Combining Designation Maps, and the implications this can have on the protection of ESHA, is an issue that has been raised in many recent appeals. Table 4-1 provides a listing of appeals that involved development in or adjacent to habitats/potential habitats for rare and endangered species not mapped as ESHA by the LCP.

Table 4-1: Appeals in/adjacent to unmapped ESHA

Appeal No.	Project	Unmapped Habitat Type and Location
A-3-SLO-96-021	Eady Motel	Riparian, Cambria
A-3-SLO-97-40	Los Osos Wastewater Treatment Project	Coastal Scrub, Los Osos
A-3-SLO-98-108	Rodman/Holland Subdivision	Coastal Scrub, Los Osos
A-3-SLO-99-083	Wright Storage Project	Coastal Scrub, Los Osos
A-3-SLO-99-014 and A-3-SLO-99-032	Morro Bay Ltd. Lot Line Adjustment and Roadway project	Wetlands and Grasslands, Harmony Coast
A-3-SLO-98-087	Cabrillo Associates/Pratt Subdivision	Maritime Chaparral (Morro Manzanita), Los Osos
A-3-SLO-00-40	Schneider Residence	Grasslands, Harmony Coast

In addition to the above appeals, the Commission staff is aware of the following locally approved development that was not appealed but also involved development in or adjacent to ESHA that is not mapped as such by the LCP:

Table 4-2 Local Permits in/adjacent to unmapped ESHA

Local Permit No.	Project	Habitat Type and Location
D870122D	Monarch Grove Subdivision	Coastal scrub, Los Osos
D960037	Morro Shores Subdivision	Coastal scrub, Los Osos
D980300P	Mehring residence	Maritime chaparral, Los Osos
D990196P	El Moro bike trail	Coastal scrub, Los Osos
D970257D	MCI/Worldcom	Coastal scrub, Los Osos

As shown by the above tables, the Los Osos/Baywood Park region of the Estero Planning area is an area where LCP maps do not effectively represent the full extent of sensitive

habitats. This is largely due to the US Fish and Wildlife Service's listing of the Morro Bay Shoulderband snail and four local plant species as threatened or endangered in 1997.

The other area where ESHA exists but is not mapped by the LCP, as indicated by Table 4-1, is the largely undeveloped coastline between Cayucos and Cambria known as the Harmony Coast. It appears that the wetland and terrestrial habitat values of this area were not recognized during the original development and certification of the LCP, and have since been identified during project specific development reviews.

While these two geographic regions provide good examples of the problems raised by the LCP's map based system, the problem is not limited to these areas. Maps 4-A and 4-B compare the habitat areas for rare and endangered species identified by the Department of Fish and Game's National Diversity Database to the areas mapped as ESHA by the LCP. As shown by these figures, there are many important habitat areas that are essential to the protection and recovery of threatened and endangered species, but are not designated as such by the existing LCP. It should also be noted that habitat areas illustrated by these figures are limited to those that support for plants or animals listed as rare of endangered under the state and federal Endangered Species Acts. There are over 100 additional species in San Luis Obispo that have been listed as a Species of Concern, proposed for listing, or classified as rare by the California Native Plant Society whose habitats are not reflected by these figures.

LCP Implementation:

Between 1988 and 1998, the County's application of ESHA protection provisions appears to have been largely based upon whether the project is proposed in a location within or adjacent to a mapped ESHA Combining Designation. That is, the Combining Designation Maps provided the primary tool for identifying when proposed development posed potential impacts to ESHA, and was therefore subject to compliance with the range of habitat protection provisions provided by the LCP.

During this time period, however, potential impacts of new development on ESHA not mapped as such by the LCP were sometimes identified pursuant to an environmental review required under the California Environmental Quality Act (CEQA). Such examples are limited due to the fact that most of the developments authorized by local coastal development permits qualify for exemptions from the requirements of CEQA.

Environmental reviews conducted pursuant to CEQA that identified impacts to sensitive habitats not mapped by the LCP include the subdivisions known as Monarch Grove, Cabrillo Estates, and Morro Shores, all of which are located in the urban area of Los Osos. By virtue of the fact that the involved habitats were not mapped as ESHA, and the Land Use Designations allowed for smaller lots, the subdivisions were approved. While some habitat mitigation was provided pursuant to CEQA, these measures did not achieve the same level of habitat protection otherwise required by the LCP for mapped ESHA, particularly those that prohibit land divisions within ESHA.

A significant change to this map-based approach occurred in 1998, after the Coastal Commission determined that an appeal of the Los Osos Wastewater Treatment project (A-3-SLO-97-40) raised a substantial issue. An important basis for this decision was the Commission's interpretation that LCP ESHA protection standards should be applied to any area that supports sensitive habitat resources, whether or not it is mapped as such by the LCP. The findings drafted in support of this interpretation state:

> *The LCP is silent on what to do in those instances where environmentally sensitive habits are found at a particular site, as is the case here, but they have not yet been officially mapped. To interpret the LCP policies in a way that such environmentally sensitive habitats are not treated as such would be at odds with both the intent of the LCP's ESH protection policies and the clear direction of Coastal Act objectives. It would also be poor public policy and resource planning to suggest an accurate delineation of all sensitive habitats will be accomplished at only one specific point in time, due to the many dynamic variables that can affect the type and location such resources over time. Public policy must be able to account for new information and scientific understanding in the implementation of resource protection policies, such as the information that has been developed by the County regarding the habitat values of the treatment plant and disposal sites. The only rational response is such situations, therefore, is to treat existing environmentally sensitive habitats as such under the LCP, regardless of whether they are currently precisely mapped in the Land Use Element.*

Consistent with this interpretation, the County has not intentionally limited the application of LCP ESHA protection provisions to the mapped areas since the Commission's consideration of the Los Osos Treatment Project. In fact, since 1997, County staff has done a commendable job of identifying where development may impact ESHA regardless of the development area's mapping status, particularly in the Los Osos area. In addition, the draft updates to both the North Coast and Estero Area Plans include revisions that will require the protection of ESHA whether mapped or not.

Clearly, there are important reasons to update and/or revise the LCP's map based system for identifying ESHA. These include:

- Ensuring that all sensitive habitat areas are effectively identified and protected consistent with Coastal Act Sections 30240 and 30241; and,

- Establishing a clear and consistent process for development review, including an accurate identification of which projects are appealable to the Coastal Commission by virtue of their location in sensitive resource area.[5]

[5] Pursuant to Section 23.01.043c(3)(I), any development located within "Special marine and land habitat areas, wetlands, lagoons, and estuaries and mapped and designated as Environmentally Sensitive Habitats in the Local Coastal Plan" are appealable to the Coastal Commission.

This does not mean that the use of maps and Combining Designations should be abandoned; as previously noted, these maps provide a useful tool for identifying particular areas known to support sensitive habitats. What it does mean is that these maps need to be supplemented with additional information and analysis to ensure that the protection of ESHA is not overlooked. This information base must be broad enough to identify all areas of the County coastal zone that meet the Coastal Act definition of ESHA.[6] In addition, the information base must be updated on a regular basis to reflect changes in the status and location of rare and valuable habitat resources over time.

There are numerous reference tools that can be used to supplement the LCP's existing Combining Designations in a manner that reflects the full range of plants and animals in the San Luis Obispo County coastal zone that qualify as ESHA. The most important of these are the lists of rare, threatened and endangered species maintained by the US Fish and Wildlife Service (USFWS), the California Department of Fish and Game (DFG), and the California Native Plant Society (CNPS). All of these lists are accessible on the internet, and are routinely updated, as described below.

- The US Fish and Wildlife Service provides lists of all species that are classified as threatened or endangered under the federal Endangered Species Act, as well as those that are designated as a species of concern, and those that are being proposed or considered for such listing. Updates to these lists are provided via the Federal Register.

- The California Department of Fish and Game maintains the California Natural Diversity Database (CNDDB), a statewide inventory of the locations and condition of the state's rarest species and natural communities. As stated on the DFG website, the goal of this program is "to provide the most current information on the state's most imperiled elements of natural diversity and to provide tools to analyze these data. The California Natural Diversity Database (CNDDB) is a continually refined and updated computerized inventory of location and condition information on California's rarest plants, animals, and natural communities." Among the information available are listings of "special status species" by County. Special Status Species include all plants and animals listed as a species of concern, threatened, or endangered under the Federal Endangered Species Act; listed as rare, threatened or endangered under the California Endangered Species Act; and, those species that have been otherwise assigned special status by DFG or CNPS.

- The California Native Plant Society (CNPS) maintains a Rare Plant Inventory that provides information on the distribution, ecology, and conservation status of California's rare and endangered plants. The Program currently recognizes 857 plant taxa (species, subspecies and varieties) as rare or endangered in California. Another

[6] Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Coastal Act Section 30107.5).

34 taxa of native identified by the inventory are presumed to have gone extinct in California in the last 100 years.

Perhaps the most comprehensive of the above lists is the Natural Diversity Database, which strives to identify the full range of plants and animals that have been granted special status by the federal government, the state of California, the Department of Fish and Game, and the California Native Plant Society.

While these lists certainly provide an important tool for identifying the particular species whose habitats' should be protected as ESHA, the delineation of ESHA should not be limited to the habitats of listed species. Other sensitive habitats that may not support threatened and endangered species may be considered "rare or especially valuable" from a local, regional, or statewide perspective, and therefore should be protected as ESHA by the LCP. Good examples of such habitat areas include over-wintering sites for Monarch butterflies; elephant seal haul-out and breeding areas; and coastal dune/dune scrub, oak woodland, native grassland, and maritime chaparral plant communities.

In addition to updating the full range of species and habitat types that qualify as ESHA, it is essential to obtain the site-specific information that identifies if ESHA exists on or adjacent to a proposed development site.

Currently, the coastal development permit application requirements contained in sections Section 23.02.030, 23.02.033, and 23.02.034 of the CZLUO require applications to provide, among other information, "the generalized location of any major topographic or man-made feature on the site, such as rock outcrops, bluffs, streams and watercourses, or graded areas". While this information will help identify when a development proposal may impact a stream or riparian habitat, it will not lead to the identification of other sensitive habitats, such a coastal dune scrub.

For development within a Combining Designation, Section 23.02.030 requires applications to include "additional information", but does not specify what type of additional information must be provided. Presumably, the additional information should identify the resources present on the site that was the basis for the Combining Designation. Regardless, since this additional information is only required for projects within a Combining Designation, it will not lead to the identification of sensitive habitats that may be present on a development site that is not mapped as a Combining Designation.

Finally, Section 23.02.030b(ix) requires permit applications within urban or village reserve lines to show the location of trees existing on the site or within 40 feet of the proposed grading or other construction, which are eight inches or larger in diameter at four feet above natural grade. While this information is important in terms of protecting older and larger trees that are important environmental and visual resources, it is not adequate to determine the presence of terrestrial habitats. Not only is the identification of trees limited to projects within urban and village reserve lines, but the limited size of

trees identified under this standard does not include younger trees crucial to the long-term health of a forested area or sensitive tree-like shrubs such as Morro manzanita.

Thus, expanding upon the information required at the application stage regarding the type and extent of native habitat that may exist on and adjacent to the proposed development would help address the deficiencies of the existing Combining Designations. The requirements for such information needs not only to be broad enough to ensure that the potential presence of ESHA is not overlooked, but balanced so that they do not place unnecessary burdens on the development review process. Alternative methods of addressing this need are analyzed below.

Preliminary Policy Alternatives:

The issues that need to be addressed to effectively resolve what constitutes ESHA include:

- Identifying the sources of species and habitat information that must be used to determine the presence of ESHA;
- Obtaining site specific information regarding the potential presence of biological resources on or near proposed development as part of coastal development permit applications; and
- Establishing a more definitive process for delineating the extent of ESHA on a particular site.

Alternative methods of responding to these needs are detailed below.

Alternative Sources of Species and Habitat Information: As previously described, there is a wide range of reference materials available to determine whether the plants, animals, or habitats present on a particular site may qualify as ESHA. These include the existing Combining Designation Maps and descriptions; the lists of sensitive species maintained and update by USFWS, DFG, and CNPS; the CEQA review process; and, other sensitive habitats that may be determined to be especially rare and valuable by the County and the State.

Alternative A1: Updated Combining Designation Maps

Under this alternative, the current map based approach for determining the presence of ESHA would be retained, but an intensive effort to update these maps consistent with the current status and distribution of rare and endangered species would take place. In addition to considering the data and information available from USFWS, DFG, and CNPS (among others), the update of the maps would involve assessments and verification of habitat boundaries using field research, aerial photo analysis, and other methods. Habitat maps provided by project specific biology reports could also be used to update the Combining Designation maps.

To account for future changes in special status species, this alternative would also need to include provisions to ensure that subsequent updates of the Combining Designation maps would occur on a periodic basis. Various triggers to future updates could include a commitment to such updates once a year (or other appropriate time frame). The Resource Management System (RMS), described in the New Development Chapter, could be expanded to provide procedures for such updates. In addition, standardizing the requirements for biology reports, particularly mapping, would facilitate the incorporation of new information/habitat delineations within the Combining Designation mapping system.

Benefits of this approach include providing greater certainty about the specific geographic regions where LCP ESHA protection provisions apply; and, facilitating comprehensive interagency periodic reviews of the type and location of biological resources that should be protected as ESHA by the LCP.

Problems with this approach include the difficulties sure to be encountered in reaching timely and acceptable updates to the maps, and the remaining possibility for development to occur on unmapped ESHA. The amount of research, conflict resolution, and debate accompanying these updates would likely present significant obstacles. Even if such updates could be efficiently processed, the potential for development to impact ESHA that was unknown or overlooked during the amendment process would remain. An additional problem would the limited ability to do research on private property necessary to effectively update these maps.

Alternative A2: Supplement the Use of Combining Designation Maps with Additional Tools to Determine the Presence of ESHA

Rather than basing the presence of ESHA on the Combining Maps alone, the LCP could acknowledge that certain habitats constitute ESHA, regardless of their mapping status. For example, habitats for special status species listed by the Natural Diversity Database, as well as other habitats determined by the County and the Coastal Commission to be ESHA through the LCP Amendment and Update process, could be protected as ESHA whether or not they are mapped as such by the Combining Designations. Under this alternative, if the habitats for any of the species listed by the Natural Diversity Database, or other specified ESHA, are identified as existing, or having the potential to exist on or adjacent to a proposed development site, a thorough biological analysis to make a final determination of the presence and extent of ESHA would follow.

This alternative is similar to the approach being proposed in the current North Coast and Estero Area Plan Updates, which recognize habitat for species listed by federal or state agencies as ESHA. The Estero Update goes one step further than the North Coast Update by also recognizing habitat for rare or endangered species "as defined by State CEQA Guidelines as ESHA". This would include, but not be limited to, the threatened and endangered species listed pursuant to state and federal Endangered Species Acts; habitats for other species that have not been placed on an official list, but meet the criteria of Section 15380(b) of the CEQA Guidelines, would also be protected as ESHA.

Neither the North Coast nor Estero Updates address the use of the Natural Diversity Database, which includes plants classified by the California Native Plant Society, as well as plants and animals that are proposed for listing by the state or federal governments and other species identified as a "species of concern". However, such information is typically considered in the evaluation of whether a species meets the CEQA Guidelines definition of a rare or endangered species.

The Updates also appropriately identify particular habitat types that should be added to the LCP's current list of ESHA. For the North Coast, this includes central foredunes, coastal freshwater marshes, central dune scrub, central maritime chaparral, coastal dunes (including oak groves and native groundcover vegetation that stabilize the dune landform north of San Simeon Pt.), trees used as over-wintering habitat by the Monarch butterfly; and elephant seal haul out and breeding areas. In the Estero Planning Area, the update identifies ecologically significant areas of oak woodland, coastal strand, coastal sage scrub, dune scrub, maritime chaparral communities, and other significant stands of vegetation such as Bishop pine, eucalyptus, and cypress[7] as environmentally sensitive areas. Both the Updates recognize all riparian habitat corridors as ESHA, whether or not they border a "blue-line" stream shown by USGS quadrangles.

Clearly, both the updates represent significant improvements to the LCP's current mapped based system for defining ESHA, and the County should be commended in this regard. Further consideration should be given to the use of the Natural Diversity Database as an additional tool to supplement the use of the Combining Designation maps. In addition, the Area Plan Updates will need to be accompanied by amendments to the Coastal Plan Policies document and the Coastal Zone Land Use Ordinance to achieve internal consistency and ensure effective implementation of these changes, as recommended below.

Perhaps the most complicated aspect of this alternative is obtaining a quality inventory of biological resources at the development application stage. Obviously, such an inventory is essential to determine whether any listed species or other sensitive habitats are present on a site. This issue is addressed in the next alternative analysis presented below.

Alternative Methods of Obtaining Site Specific Biological Information: Effective implementation of Alternative A2 (above) is dependent upon obtaining a comprehensive inventory of the biological resources (i.e., plants, animals, and sensitive habitat types) that are on and adjacent to a proposed development site. It appears that the original intent of the Combining Designations was to identify the particular areas where such detailed biological assessments would be required. However, as previously discussed, the Combining Designation maps do not effectively delineate all locations of potential ESHA, and therefore should not be relied upon to identify the particular areas where biological evaluations are needed. Thus, it appears that biological evaluations to determine the potential presence of ESHA are needed outside of the mapped areas. Yet,

[7] Provided that these stands of vegetation do not need to be removed due to hazardous conditions or restoration/enhancement of native habitat.

a blanket requirement that *all* new development provide such biological evaluations may place unnecessary burdens on the permit application and review process. The challenge is therefore to establish an appropriate balance between requiring biological evaluations where there is the potential for ESHA to exist, and exempting certain areas from such evaluations where it can be definitively shown that new development will not impact ESHA.

Alternative B1: Rely on the Biological Evaluation Conducted Pursuant to the California Environmental Quality Act

According to County Planning staff, every proposed development site is inspected as part of the Initial Study required under the California Environmental Quality Act (CEQA). While many of these projects are later determined to be exempt from the full environmental review requirements of CEQA, such exemptions are not granted until an initial site inspection has occurred. If a site appears to provide important habitat values based on the professional judgement of the local planning staff during this initial inspection, the applicant is typically required to provide additional biological information (e.g., habitat survey).

Under this alternative, local planning staff would determine if biological evaluations are needed based on the results of their initial field inspections. If the vegetation, soils, or other features of a site appear to have the potential to support sensitive habitats, or the site appears to be within 100 feet of an ESHA, a biological report prepared pursuant to CZLUO Section 23.07.170[8] would be required as part of the development permit application. To ensure that these procedures are appropriately followed, new provisions should be incorporated into Chapter 2 of the CZLUO regarding the content and processing of permit applications.

In general, this seems to be the approach being proposed in both the current Estero and North Coast Area Plan Updates. As proposed on page 7-8 of the Estero Update, a biological or other applicable report that identifies sensitive features must be prepared when required by the Coastal Zone Land Use Ordinance (e.g., when located in a mapped ESHA Combining Designation), or when required by the Planning Director. Although not specifically stated, it is assumed that the Planning Director would require such reports when the initial investigation of the site by County planning staff indicated the potential for ESHA to exist on a site.

Similarly, the current North Coast Area Plan Update proposes on page 7.17 that "all projects which have the potential to adversely impact and Environmentally Sensitive Habitat Area (ESHA) will be subject to mandatory environmental site review, whether or not located within a previously mapped Sensitive Resource Area. If the review identifies the potential for impacts to sensitive habitat and/or wildlife, a biological assessment shall

[8] Recommended changes to this section of the CZLUO can be found on pages _ of this report. As part of the recommended changes, development projects within specific habitat types that can be protected through the development and implementation a comprehensive system-wide program (e.g., the Cambria Pine Forest and the Los Osos Dunes) may not be required to submit a complete biological report.

be conducted by a qualified expert." It is not clear how it shall be determined whether a project has the potential to adversely affect ESHA, and therefore requires a mandatory site review. Again, it is assumed that local planning staff will make such determinations in the field.

The benefit of this approach is that it makes use of existing procedures rather than creating additional application requirements. Potential problems with this approach is that local planning staff may not have the biological expertise to effectively determine if the site may support or be adjacent to ESHA, and/or may not have adequate time to do a complete assessment of a sites biological values.

In this regard, it is noted that as modified by the Coastal Commission in January 1998, the mandatory site review required by the North Coast Update was to be undertaken by a qualified expert, during the season of the year most likely to result in successful observation of the sensitive species. These important provisions have been eliminated from the initial ("mandatory") site review required by the current update. Reinstatement of these provisions may help resolve this issue. However, the question of how to determine whether a project has the potential to impact ESHA, and therefore requires such a site review, remains.

Alternative B2: Require All Development Applications Involving New Site Disturbance to Provide Site Specific Biological Information

Under this alternative, every coastal development permit application that involved new site disturbance would be required to include a comprehensive list of all biological resources that occur, or have the potential to occur, on the site. Where development would be located within 100 feet (the minimum ESHA setback) of the property line, the required biological survey would need to extend onto adjacent property to a distance of 100 feet from the proposed development. This is similar to the existing LCP requirement that applications for development within 100 feet of the boundary of a mapped ESHA include a biological report that, among other things, confirms that setbacks are adequate to protect the ESHA (CZLUO Section 23.07.170a(4)). The main difference is that the provision of this information would not be limited to projects that are in, or within 100 feet of, a mapped ESHA.

Procedurally, this would require all new development applications to be accompanied by an inventory of the plants and animals identified as occurring, or having the potential to occur, within 100 feet of the proposed development, prepared by a qualified biologist. Should this inventory identify the presence or potential presence of any species listed by the Department of Fish and Game's National Diversity Database, or any type of habitat designated by the LCP as ESHA, a full biological report required pursuant to CZLUO Section 23.07.170 would be required to process the application. Such procedures could be incorporated into Chapter 2 of the CZLUO.

The problem with this approach is that it adds a significant additional requirement to the application process that in some cases may be unnecessary. Certain urban environments

and other area that have been previously degraded may be clearly devoid of biological value, making a requirement for a biological survey an unnecessary component of the development review process. To address this issue, the County could evaluate the particular areas where development should be exempt from the need to provide a biological inventory as part of the application process, based on scientific evidence demonstrating the absence of ESHA in such areas.

It is noted, however, that the incorporation exemptions from biological inventory requirements into the LCP would have to be held to very high standards. Many urban areas such as Los Osos that were not considered ESHA by the LCP have been recently determined to support sensitive species and habitats.[9] Similarly, rural lands used for agricultural activities such as grazing may have been preciously viewed as providing little in the way of habitat. They have, however, been shown to provide important habitat for raptors, wetland resources, riparian species, and diminishing native grasslands.[10]

Alternative B3: Obtain the Necessary Biological Information through a Comprehensive Habitat Conservation Planing Effort

Regional and sub-regional areas that support specific sensitive habitat types may lend themselves to an ecosystem based approach to habitat identification and protection. If addressed through a comprehensive planning effort, such an approach would minimize, and perhaps avoid, the need for all development proposals to provide site-specific comprehensive biological surveys.

Under this alternative, specific types of ESHA would be delineated according to the particular physical characteristics they are dependent upon (e.g., soil type, climate). The delineation of the habitat planning area would be at a gross scale, encompassing the full range of the habitat type, irrespective of the fact that certain properties within the delineated area may no longer support the biological resources associated with the system.

Within the delineated habitat region, habitat values would be assigned to properties based upon factors including size and connectivity to other habitats. The greatest value would be assigned to those habitat areas that are essential to the systems survival and recovery, as well as those areas that represent an "Ecologically Significant Unit" (i.e., an area of habitat that is adequate in size and setbacks from incompatible uses to be self-sustaining). The lowest value would be assigned to small properties that are either too small or removed from other habitat areas to be a viable habitat area over the long-term.

The objective of the program would preserve all habitat areas that are either essential to the survival, recovery, and enhancement of special status species, or represent an Ecologically Significant Unit. Properties within the habitat planning area that do not

[9] Morro Shoulderband Snail and Four Plants for Western San Luis Obispo County, California Recovery Plan, U.S. Fish and Wildlife Service, September 1998
[10] Coastal Development Permit Files A-3-SLO-99014 and A-3-SLO-99-032 (Morro Bay Limited), A-3-SLO-00-40 (Schneider)

meet these criteria could be developed in return for contributions to the preservation of essential and sustainable habitat areas that are otherwise threatened by development, in amounts proportional to the habitat value assigned to the development site. In addition, protection of the preservation area could be facilitated by granting bonuses (e.g., increased square footage or density) to projects in the development area in return for extinguishing development credits in the preservation area. Among the many difficult details that would need to be addressed by the program would be the means of ensuring the protection of the entire preservation area(s) before development could be authorized on properties of lesser habitat value.

To ensure that such programs comply with federal and state endangered species acts, as well as the Coastal Act, they are encouraged to be developed in coordination with a Habitat Conservation Plan (HCP) and Natural Communities Conservation Program (NCCP), as administered by the US Fish and Wildlife Service and California Department of Fish and Game, respectively. Such a coordinated approach could facilitate resolution of ESHA issues on an ecosystem basis, in a manner that meet the needs of all the regulatory agencies.

While this may be an attractive approach from both an ecological and development standpoint, a great deal of research and planning would be required to develop and implement such programs. As a result, integrating such programs into the LCP is expected to be an intensive effort. Currently, both the Estero Area Plan Update and the Wastewater Treatment Project being developed by the Los Osos Community Services District, proposes such a program for the Los Osos area. This program is in its infancy, but may provide a blueprint for similar efforts elsewhere in the County, with further development and coordination with the involved parties and regulatory agencies.[11] The other area where such an ecosystem approach appears to be warranted is the Monterey Pine forest in and around the Cambria urban area. This is discussed in more detail elsewhere in this chapter.

To encourage such ecosystem based planning, new Combining Designation Programs could be incorporated into the LCP that call for the County, or other appropriate entity, to secure grants and other funding that would set these plans in motion.

Alternative Procedures for Delineating the Extent of ESHA: An additional variable in the ESHA identification issue is the process for delineating the extent of the habitat. Assuming that a biological inventory of a particular site indicates the presence, or potential presence of particular sensitive species or habitat type on a proposed development site, what protocols should be used to delineate the extent of ESHA on the site? Other than requiring a biological report for development within or adjacent to ESHA that addresses setbacks from the habitat area (CZLUO Section 23.07.170), the LCP is silent in this regard.

[11] Described in: Crawford Multari Clark & Mohr Associates, *Draft Environmental Impact Report for the Los Osos Community Services District Wastewater Facility project*, November 2000, page 290; and, SLO County Estero Area Plan Update. pages 6-25 and 6-28 – 6-30 .

Alternative C1: Rely on the Physical Presence of Particular Plants and Animals

It could be suggested that the limits of the ESHA should be co-terminus with the specific locations where sensitive plants and animals have been documented to occur on the site. A significant problem with such an approach is that it does not account for the natural movement of sensitive species occurring through seed germination and/or physical migration. As a result, this alternative would not effectively protect the full range of areas that provide habitat for rare and endangered species and may be essential for their biological continuance.

Alternative C2: Consider the Current Physical Characteristics of the Site

A much more scientifically based approach that considers the full range of the site's physical characteristics is needed to effectively delineate ESHA. Soil type, topography, vegetation, microclimate, migration corridors, and other such physical characteristics all play a significant role in defining the areas of a site that represent habitat for the particular species of concern. In addition, seasonal variations in the presence of sensitive species must also be taken into account. A thorough biological analysis of these variables and characteristics based on a current site specific evaluations conducted during the appropriate seasons, accompanied by maps accurately delineating the areas that currently provide, or have the potential to provide, habitat for rare and sensitive resources, would need to be completed by a qualified biologist. Standards specifying the minimum requirements for such biological reports would need to be incorporated into Section 23.07.170 of the CZLUO to implement this alternative. These standards should be reviewed by, and incorporate the recommendations of, other resource management agencies, including the

This is similar to the approach suggested by the Commission in its modifications to LCP Amendment 1-97 and incorporated into the current North Coast Update (p. 7-18) being developed at the local level. However, this important addition has not yet been incorporated in the Estero Update or the other two Area Plans. Changes to CZLUO Section 23.07.170 are needed to ensure effective implementation of this alternative, not only within the sensitive areas of the North Coast and Estero, but for all ESHA areas in the San Luis Obispo County coastal zone.

Alternative C3: Evaluate Restoration Potential

There may be particular areas where development has disturbed or removed physical characteristics that previously provided important habitat values, but the area remains an important component of an ESHA ecosystem, and therefore should be protected as ESHA. For example, industrial development in the Guadalupe Dunes of South County has removed significant dune habitats. Yet, if and when these industrial developments are abandoned, the facilities could be removed and the natural dune habitats restored, in a manner that aids in the survival and recovery of the rare and threatened species native to the area.

In instances such as these (i.e., where previous development has disturbed or fragmented otherwise significant habitat areas) it may be warranted to take a broader view of what constitutes ESHA on a development site. In addition to the physical characteristics that currently provide habitat value, the potential to restore the previously disturbed habitat areas should also be considered. Under this alternative, Biological Reports would be required to delineate the full extent of existing and restorable habitat areas as ESHA. Where the disturbed but restorable area is surrounded by ESHA. Again, changes to CZLUO Section 23.07.170 would be required for implementation.

Alternative C4: Establish a Process for Confirming the Presence and Extent of ESHA with DFG and USFWS

As a final tool for confirming the accurate delineation of ESHA, the applicant and/or the County Planning Department could be required to submit the required biological report for review and comment by the California Department of Fish and Game and the US Fish and Wildlife Service. The purpose of this review would be to ensure that no important habitat values were overlooked, or afforded adequate protection, by the required biological report. To prevent this from causing significant delays in the review process, a specific timeline could be assigned to these reviews (e.g., two weeks from the agencies' receipt of the Biological Report).

The LCP currently requires the Department of Fish and Game to review all applications for development in or adjacent to wetlands. Where needed, DFG is to recommend appropriate mitigations which "should be incorporated into project design" (Policy 10 for Environmentally Sensitive Habitats and CZLUO Section 23.07.172c). As discussed in the section of this Chapter regarding wetlands, it is not clear that this requirement is being consistently implemented; only 4 of the 23 permits reported to the Commission between 1988 and 1998 involving development in or adjacent to wetlands indicated that DFG was consulted. Changes to Section 23.07.170 of the CZLUO requiring that Biology reports be submitted for the review and comment of DFG and the US Fish and Wildlife Service would therefore not only help ensure that ESHA was being accurately delineated, but would also enhance implementation of existing wetland protection policies.

Preliminary Recommendation 4.1: Revise the LCP's Definition of ESHA

- Revise definitions of SRA and ESHA contained in Section 23.11.030 so that they conform to the Coastal Act definition. Clarify that ESHA, and the application of ESHA protection standards, is not limited to the areas mapped as Combining Designations. As proposed on page 7-10 of the Estero Update, use the definition of "habitat for rare and endangered species" provided by the CEQA guidelines as an additional tool to define ESHA.

- Determine the presence of ESHA based on the best available information, including current field observation, biological reports, the National Diversity Database, and US Fish and Wildlife Critical Habitat Designations and Recovery Programs.

- As proposed by both the North Coast and Estero Updates, recognize all riparian habitats as ESHA regardless of whether they are mapped by USGS quadrangles.

- Replace the LCP's definition of streams, currently limited to streams shown by USGS maps, with an alternative definition, such as that used by the Department of Fish and Game.

Preliminary Recommendation 4.2: Revise and Update ESHA Combining Designations

- Recognize maps as a tool for identifying potential locations of ESHA, but that the actual presence and extent of ESHA must be determined in the field.

- Incorporate other rare and valuable habitat types into the ESHA Combining Designation Programs. These should include, but not be limited to, the additional sensitive habitats identified by the North Coast and Estero Updates.

- Periodically update the Combining Designation Maps to identify habitats of rare and endangered species that have become listed since LCP certification, to correct mistakes contained in existing maps, and to incorporate other habitat types determined to be ESHA by the County. Consider implementing annual updates to the Combining Designation Maps as part of the LCP's Resource Management System.

- Maintain the Combining Designation maps as a dynamic geographic database that can be routinely updated as new information becomes available. To facilitate such efforts, the County should consider establishing standard formatting requirements for field surveys and biological reports that could be directly incorporated into such a system facilitate such updates. Coordination with other resource management entities involved with mapping sensitive habitats (e.g., the Morro Bay National Estuary Project) should also be pursued.

Preliminary Recommendations 4.3: Update Requirements for Biological Investigations and Reports

- Revise CZLUO Section 23.07.170 so that biological reports are prepared for all development within or adjacent to ESHA, not just those sites that have been mapped as ESHA.

- To determine when a biological report may be required for a development site that has not been previously mapped as, or determined to be ESHA, require a habitat and biological inventory prepared by a qualified biologist as part of development permit applications. Where it is clearly evident that a development site has the potential to support sensitive habitats based on the initial inspection of County planning staff, a biological report may be required without a biological inventory.

- Evaluate particular areas, particularly urban areas, where it may be appropriate to exclude new development from the need to provide a biological inventory as part of the application process. Incorporate such exclusions into the LCP based on scientific evidence demonstrating the absence of ESHA in such areas.

- Develop comprehensive habitat conservation and management programs for areas with particular habitat protection needs (e.g., Los Osos dune scrub and maritime chaparral habitats, Cambria Pine Forest; please see recommendation 2c). Upon incorporation of such programs into the LCP, development within particular habitat areas may be excluded from the need to provide site-specific biological investigations and reports. Instead, the biological information required at the application stage would be related to implementation of the area wide habitat protection program (e.g., contribution to area wide program that retires development potential in ESHA).

- Where the required biological inventory identifies the presence or potential presence of any sensitive habitat type, natural community, and/or particular plant or animal species that meets the revised definition of ESHA, a biological report should be required. Minimum requirements for biological inventories and reports should be coordinated with state and federal resource management agencies and specified in CZLUO Section 23.07.170 a.

- The location and extent of ESHA on and adjacent to a development site should be described and mapped by the Biology Report, in a format that allows it to be incorporated into a GIS based Combining Designation map system (see Preliminary Recommendation 1b above). The delineation should not be limited to the particular locations where rare plants or animals are observed at one point in time. Rather, it should consider the full range of the sites physical characteristics (e.g., soil type, vegetation, topographical features) represent potential habitat for such rare plant and animal species. In addition, where previously disturbed but restorable habitat for rare and sensitive plant and animal species exist on a site that is surrounded by other valuable habitat areas, these areas should be delineated and protected as ESHA as well. Implementation of this recommendation will also require the incorporation of additional standards for Biological Reports within CZLUO Section 23.07.170.

- Biological reports and their accompanying ESHA delineations should be submitted for the review and comment of the California Department of Fish and Game, the US Fish and Wildlife Service, and the California Coastal Commission before applications for development in or adjacent to ESHA are filed as complete. The incorporation of such a requirement into the LCP (e.g., within Section 23.07.170 of the CZLUO) could be accompanied by a specific time frame for such reviews to ensure that they would not result in undue delays in the development review process.

C.2. Avoiding and Minimizing Impacts to ESHA

Overview: The effective protection of ESHA is a multi-tiered process, which, as discussed above, starts with determining whether a site contains or is adjacent to ESHA. The next step is to avoid adverse impacts to ESHA, through a combined approach of limiting allowable uses in such areas, and implementing standards that ensure the allowable uses will be constructed and carried out in a manner that is compatible with the sensitive habitats' continuance. Such standards include ESHA setbacks, prescribed construction procedures, landscaping requirements, and long term management and monitoring of the habitat. In general, the objectives of these standards are to avoid impacts to ESHA, and ensure that the development will safeguard the biological continuance of the habitat.

Application of these policies must, however, ensure that property owners have the ability to make a reasonable economic use of their land, consistent with the rights granted under the Constitution and related legal precedents. Thus, the first problem in avoiding impacts to ESHA is limiting the use of such areas to those that are dependent on the resource, while at the same time, providing the property owner with a reasonable economic use. This necessitates that non-resource dependent development in ESHA be limited to the minimum necessary to avoid a taking, and that the full range of siting and design alternatives that would avoid impacts to ESHA be considered and pursued.

Where it is impossible to completely avoid impacts to ESHA and accommodate a reasonable economic use of private property, a wide range of measures to minimize the development's impact on ESHA and ensure the biological continuance of the habitat must be implemented. Accomplishing these objectives provide another unique set of challenges. Finally, mitigation to offset the unavoidable impacts should be required, as discussed in a subsequent section of this chapter.

LCP Provisions

Limiting Development in ESHA to Resource Dependent Uses: Although neither the Coastal Act nor the LCP define "resource dependent", the LCP definition of "Coastal-Dependent Development or Use" provides a good reference:

> *Any development or use that requires a permanent location on or adjacent to the ocean.* (CZLUO, p. 11-7)

Similar to the above definition, a use that is dependent upon an ESHA can be considered a development or use that requires a location within or adjacent to the resources particular to the ESHA.

The primary means by which the certified LCP carries out the Coastal Act requirement to limit development within ESHA to resource dependent uses is LCP Policy 1 for Environmentally Sensitive Habitats, which states in part:

> *Within an existing resource, only those uses dependent on such resources shall be allowed within the area.*

Sections 23.07.170-178 of the CZLUO implement this Policy. In particular, the development standards for environmentally sensitive habitats specified by Section 23.07.170d(2) states:

> *New development within the habitat shall be limited to those uses that are dependent on the resource.*

Avoiding Impacts to ESHA: There are many LCP provisions that prohibit new development which would significantly disrupt or threaten the continuance of sensitive habitats. Among the most important is CZLUO Section 23.07.170, which specifies the application materials, required findings, and development standards for development proposed within or adjacent to ("within 100 feet of the boundary of"[12]) an area mapped by the LCP as ESHA. In particular, part b of this section requires the following findings:

> *There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.* And,
>
> *The proposed use will not significantly disrupt the habitat.*

As an additional means of avoiding adverse impacts to ESHA, part c of Section 23.07.170 prohibits land divisions in ESHA unless all building sites are located entirely outside of the minimum setbacks established by the LCP.

Another important ordinance is 23.05.034c, which prohibits grading within 100 feet of environmentally sensitive habitat unless a setback adjustment is granted pursuant to Sections 23.07.172d(2) for wetlands or 23.07.174d(2) for streams. (The application of these adjustments are analyzed in subsequent sections of this chapter specific to stream and wetland habitats). Section 23.05.034c also allows an adjustment to this setback where the grading is necessary to locate a principally permitted use within an urban service line and the 100 foot setback would render the site physically unsuitable for the principally permitted use. In such instances, no grading may occur closer than 50 feet to the habitat or as allowed by planning area standard (whichever is greater); and, the grading permit application must be accompanied by a grading plan prepared and certified by a registered civil engineer.

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[12] This definition of adjacency conflicts with Policy 1 for Environmentally Sensitive Habitats, which qualifies that adjacency is generally within 100 feet "*unless sites further removed would significantly disrupt the habitat*".

Minimizing Impacts to ESHA: Where it may not be possible to avoid development in or adjacent to ESHA, the Area Plan Standards provide important regulations for new development designed to minimize impacts. In particular, Combining Designation Standards for all rural areas of the North Coast and Estero Planning Area mapped as Sensitive Resource Areas (SRA) state:

> *Projects requiring Development Plan approval are to concentrate proposed uses in the least sensitive portion of the property and retain native vegetation as much as possible.*

The same standard is also included in the San Luis Bay Area Plan, with the added caveat that:

> *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. Native vegetation is to be retained as much as possible.*

Other LCP provisions that seek to minimize impacts on ESHA include:

ESHA Policy 12, which limits mosquito abatement practices to the minimum necessary to protect health and prevent damage to natural resources, and encourages biological control measures;

ESHA Policy 29, which requires that the design of trails in and adjoining sensitive habitats minimize adverse impact on these areas; and,

CZLUO Section 23.07.172, which requires that development of a structure larger than 1000 square feet in floor area on a site over 1 acre containing a wetland be accompanied by an open space easement or fee title dedication be granted to the County for all portions of the site not proposed for development, as well as the entire wetland.

LCP Implementation

Limiting Development in ESHA to Resource Dependent Uses: While the LCP contains appropriate policies and ordinances to carry out the provision of Coastal Act Section 30240 limiting development in ESHA to uses that are dependent on the resource, a review of the development approved by the County in ESHA indicates that these provisions have not been consistently implemented. Between 1988 and 1998, the Commission has been notified of approximately 778 permits approved by the County that involved development in or adjacent to areas that have been mapped as ESHA[13] (please see Maps 4-C, D, E, and F). An evaluation of this data indicates that very few of these permits were for development that is dependent upon ESHA resources.

[13] this does not include permits for development that may be in or adjacent to unmapped ESHA

For example, approximately 666 permits approved by the County between 1988 and 1998 and reported to the Commission involved development within the Terrestrial Habitat (TH) Combining Designation overlay. Of these permits, 626 (94%) involved new or expanded residential development within the Cambria pine forest, a use that is not dependent on forest resources. This is not a criticism of the County's approval of residential development on legal lots of record. Rather, it illustrates the difficulties in limiting development in ESHA to resource dependent uses while respecting existing private property rights. It also indicates the need to evaluate alternative means of planning and regulating non-resource dependent development in such areas to ensure that cumulative impacts do not jeopardize the continuance of the habitat.

A sampling of the permits involving development within ESHA Combining Designations shows that the resource dependence criteria for development in ESHA (e.g., ESHA Policy 1 and CZLUO Section 23.07.170d(2)) is typically not identified or discussed in the staff report and findings that accompany the Final Local Action Notices (FLANs).

In order to provide an adequate evaluation of project's consistency with the resource dependence requirement where applicable, the following information should be, but has not been, provided in the County's discussion and findings for development approved in ESHA:

- A description of why the proposed use is dependent upon a location in the resource area.
- If the proposed development is not dependent on the resource, an analysis of alternative project sites and designs that would avoid direct impacts to ESHA.

Pursuing Development Alternatives that Avoids Impacts to ESHA: Where a non-resource dependent use is proposed on a site containing ESHA, the preferred course of action should be to identify and pursue siting and design alternatives that avoid any impacts to ESHA resources and comply with ESHA setback requirements.

One way to achieve this objective is to cluster development outside of the ESHA and its setback. Unfortunately, the Area Plans currently limit this clustering requirement to project requiring Development Plan approval, while the large majority of development in ESHA is permitted through the Minor Use Permit process. This problem is proposed to be corrected by both the North Coast and Estero Area Plan Updates.[14] Similar corrections should be pursued for both the San Luis Bay and South County Planning Areas as well.

Another problem in implementing clustering requirements, and one that has not yet been tackled by the Area Plan Updates, is that the standards for clustering land divisions established by CZLUO Section 23.04.036 are not stringent enough to ensure the effective protection of ESHA. One such "clustered" division approved by the County in the

[14] Estero Area Plan Update pages 7-9 – 7-10 and the North Coast Area Plan Update page 7-25

Monterey Pine forest area immediately north of the Cambria Urban Area created lots of over 20 acres in size that significantly expanded the amount of development potential within this ESHA area (see Chapter 2 for details).

In addition to clustering, the transfer of development credits outside of ESHA to areas that are better suited for non-resource dependent development is another alternative for avoiding impacts to ESHA that can be pursued through the incorporation of such programs into the LCP. A TDC program has been implemented with some success in the Cambria Urban Area, but appears to be in need of an update as discussed later in this chapter. The Estero Area Plan Update has also proposed such a program for the Los Osos area, although many of the important details have yet to be resolved. Nevertheless, such a program offers promise towards avoiding development in the most sensitive habitats of this area.

Sub-regional habitat conservation and management plans, oriented to the protection of particular habitat systems or units, also provide a promising way to ensure that new development will not have an adverse impacts on ESHA. The development of such plans, and their incorporation into the LCP could not only provide a more comprehensive planning framework for habitat conservation on an ecosystem basis, but could also resolve other regulatory requirements related to federal and state Endangered Species Acts. Such an effort is currently underway in Los Osos. As described later in this Chapter, a similar effort to address the Monterey Pine Forest ecosystem of the North Coast area, that builds upon the Cambria CSD's current forest management planning efforts, would help ensure that the buildout of this area occurs consistent with the continuance of this important habitat.

Clearly, a thorough evaluation of all alternatives that would avoid development within ESHA must be conducted during local permit review. While the pursuit of alternatives involving the transfer of development credits or implementation of a large scale habitat conservation and management plan may be predicated on the incorporation of such programs into the LCP, other alternatives involving changes in project siting or design are currently ripe for consideration. However, the limited information contained in the Final Local Action Notices for development approved within or adjacent to ESHA Combining Designations does not shed much light on the degree to which the full range of alternatives that would achieve these objectives are considered during the local review process.

The general observation of the Commission staff has been that while alternative siting and access routes are occasionally considered during local review, it is less common for the County to pursue changes to a project design, particularly a single family residence, that would avoid or minimize impacts to ESHA. For example, relocating a proposed residence to a less sensitive portion of a site may be considered, but changes to that house design (e.g., smaller size, different footprint) to avoid the direct removal of sensitive habitats is a less common approach. Nevertheless, the County has made strides in this regard, as recent coordination efforts indicate that design alternatives are being more aggressively pursued.

Another problem appears to be that greater emphasis appears to be placed on mitigating, rather than avoiding impacts to sensitive habitats. One source of this problem may be that the Biological Reports required for development within or adjacent to ESHA by CZLUO Section 23.07.170a calls for such reports to "identify the maximum feasible mitigation measures to protect the resource". Biological reports are not, however, required to evaluate siting and design alternatives that would avoid impacts to ESHA.

It must be acknowledged that the full range of alternatives considered for each development approved by the County in or adjacent to ESHA may not be evident in the information provided to the Commission staff. Better documentation of the alternatives considered, particularly those that would avoid direct impacts to ESHA, would go a long way towards reducing the number of local permit being appealed and ensuring that Coastal Act Section 30240 is effectively being carried out.

Finally, to adequately consider alternatives that will avoid impacts to ESHA, it is essential to understand the complete scope of the impacts posed to ESHA by the proposed development. One potentially significant impact that is commonly overlooked is the fire safety requirements that will be placed on the development. These requirements can often include roadway expansions or improvements that may impact ESHA, and/or the clearing of vegetation that may qualify as ESHA. Thus, it is essential that these fire safety needs are fully understood prior to acting on a development application. This will allow alternatives to avoid impacts to ESHA to be pursued at two levels: first, by modifying the siting, design, or intensity of the development to obviate the need for roadway improvements or vegetation clearance that would damage ESHA; and second, by exploring alternative fire safety solutions. This is another issue area where increased coordination between County and Commission staff, as well as other interested parties, has yielded more complete assessments of fire clearance impacts and alternatives in recent permits.

Analyzing the "Takings" Issue: A critical step in evaluating whether avoidance is possible, and to what degree impacts can be minimized, is to understand the economic backed expectations of the property owner when the property was acquired. Recognizing that the implementation of LCP Policies can not deprive a property owner of an economically viable use (i.e., constitute a taking), some non-resource dependent development may be allowed in an ESHA, even though the LCP specifically prohibits such development.[15]

This is a complex issue, one that is not sufficiently addressed by the existing LCP. Certainly, the protection of private property rights is a legitimate concern that has affected the County's, as well as the Coastal Commission's, implementation of LCP and Coastal Act ESHA protection policies, and has contributed to the approval of non-resource dependent development in ESHA. Yet the particular facts related to these

[15] A non-resource dependent development in ESHA can still be denied if it would constitute a nuisance under State law, or if a more modest alternative that would assure an economically viable use and better protect ESHA is available.

concerns are rarely analyzed during the local review of such projects. This may be a result of the fact that the LCP, as currently certified, provides very little guidance on how to balance the rights of private property owners with the ESHA protection principles of the LCP and Coastal Act.

Although not directly addressed by findings or analysis, concerns regarding the taking of private property have likely impacted the County's implementation of LCP ESHA protection provisions. This was a probable factor in the County's approval of new subdivisions in ESHA, contrary to ESHA Policy 4 and CZLUO Section 23.07.170c specifically prohibiting such land divisions.

At least two components of the LCP may be contributing to this problem. Table O, contained in the LCP's Framework for Planning, identifies allowable uses per land use designation, but does not identify the resource dependent criteria for ESHA. Similarly, the parcel size standards established by CZLUO Sections 23.04.020 - 036 do not acknowledge the prohibition against subdividing in ESHA. Preliminary Recommendation 2a is intended to address this concern.

Minimizing Unavoidable Impacts: As required by the LCP, the impacts of development in or near an ESHA must be contained to a level that does not significantly impact or disrupt the habitat. Development must also be consistent with the biological continuance of the habitat.[16] Where avoiding development in or near ESHA is not possible, the primary means of achieving compliance with these requirements is to minimize the impacts of the development on ESHA to the greatest degree feasible.

Where it is impossible to accommodate a reasonable economic use of private property that avoids impacts to ESHA, measures to minimize both temporary and long-term impacts, and ensure the biological continuance of the habitat, must accompany the development. The remaining habitat should be permanently protected through the implementation of monitoring and maintenance requirements, and through the use of deed restrictions, conservation easements, and/or other legal mechanisms. Finally, mitigation to offset the unavoidable impacts should be required, as discussed in the following section of this chapter.

A review of the development approved by the County within or adjacent to ESHA between 1988 and 1998 and reported to the Commission indicates that the County has diligently applied conditions intended to minimize the impacts of project construction on ESHA. Drainage plans, landscape/revegetation plans, construction fencing and other conditions of approval intended to minimize construction impacts are routinely required as a condition of approval for development in or adjacent to ESHA.[17]

Long-term monitoring and maintenance provisions appear to have been implemented with more limited success. While monitoring and maintenance of

[16] ESHA Policies 1 and 2, CZLUO Section 23.07.170b.
[17] Requiring these plans as a condition of approval, rather than at the application stage, presents another set of issues, as discussed in the Chapter of this Report regarding Procedures.

landscaping/revegetation is typically required, it is not clear that these requirements are adequately carried out or enforced.

The LCP's ability to minimize impacts to ESHA by requiring undeveloped portions of the site to be permanently protected is limited to development over 1,000 square feet on sites over one acre with wetland habitats. A review of the permits approved by the County between 1988 and 1998 on sites with a Wetland Combining Designation and reported to the Commission indicates that this LCP requirement is rarely enforced. In addition to implementing this requirement on a consistent basis, a similar provision that would apply to all sites containing ESHA should be considered.

Preliminary Policy Alternatives

Preliminary Recommendation 4.4: Identify, and implement where feasible, the Resource Dependent Criteria for Development in ESHA

- Revise "Table O" to clarify that Resource Dependent Uses are the only allowed use within an ESHA or their required setbacks. All other uses that may be permitted to accommodate an economic use should be considered a conditionally permitted use.

- Where non-resource dependent uses are proposed in or adjacent to ESHA, and may be necessary to accommodate to avoid a "taking" (i.e., there are no feasible alternatives that avoid impacts to ESHA), require applicants to submit specific information to establish that there is a reasonable economic backed expectation for the non-resource dependent use (see Preliminary Recommendation 4.10, below).

- Provide exceptions to the above standards in areas that are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Preliminary Recommendation 4.6, below).

Preliminary Recommendation 4.5: Prohibit Subdivisions that Create new Lots in ESHA

- Implement the provisions of 23.07.170c.

- Revise Cluster Division Ordinance to require much smaller lots, that they be located entirely outside ESHA and its setback, and that all of the ESHA area be retained and protected as Open Space. Make clustered division mandatory, rather than optional, for all divisions on parcels containing ESHA.

- Clarify that the parcel sizes established by CZLUO Sections 23.04.020 – 033 do not apply to sites that support ESHA, within which land divisions are prohibited.

Preliminary Recommendation 4.6: Develop Comprehensive Habitat Conservation, Protection and Management Programs for Areas with Particular Habitat Protection Needs and Challenges

In urban areas that contain numerous existing lots within ESHA that has been fragmented or degraded by surrounding development, develop programs allowing for non-resource dependent uses that contribute to the protection of surrounding viable habitat areas threatened by development. The current effort to develop a Habitat Conservation Plan as part of the Los Osos Wastewater Treatment project and Estero Area Update should continue to be pursued, with ongoing coordination between the Los Osos CSD, involved regulatory agencies, and interested parties. As proposed by Preliminary Recommendation 4.36 later in this Chapter, a similar approach, involving a comprehensive forest management plan for Cambria would go a long way towards managing cumulative buildout in a manner that will protect the long-term health and survival of sensitive Monterey Pine Forest habitats.

Preliminary Recommendation 4.7: Revise Biological Report Requirements

- In addition to the information that is currently required to be included in biology reports pursuant to CZLUO Section 23.07.170, the reports should identify project alternatives that would first avoid, then minimize impacts to ESHA.

- Require Biological Reports to include an assessment of the impacts posed by fire safety requirements, such as vegetation clearance and roadway improvements. Where such development may impact ESHA, project alternatives that avoid these impacts should be identified.

Preliminary Recommendation 4.8: Expand Application of Rural Area SRA Standards regarding "Site Planning – Development Plan Projects" Contained in Area Plans

- As proposed in both the North Coast and Estero Area Plan Updates, require *all* development (not just those located in rural areas that trigger Development Plan review) to concentrate proposed uses in the least sensitive portions of properties and retain native vegetation as much as possible. Apply this standard throughout the coastal zone.

- Require all applications for development within an SRA or its setback include an overall development plan for <u>all</u> properties that are geographically contiguous and in common ownership[18] at the time of the application.

[18] Parcels that are owned in fee as well as parcels subject to existing purchase options, even if separated by roads, streets, utility easements or railroad rights of way.

- Provide flexibility in non-habitat related setback requirements where necessary to avoid and minimize ESHA impacts.

Preliminary Recommendation 4.9: Thoroughly Review and Aggressively Pursue Project Alternatives that Avoid Impacts to ESHA

- The full range of project alternatives that would avoid impacts to ESHA, from alternative sites to different designs (including reductions in project sizes) should be pursued and required. This should include a critical analysis of the alternatives suggested in the biological report (see Preliminary Recommendation 4.7).

- In accordance with Policy 1 for ESHA, the requirements of CZLUO Section 23.07.170 should apply to development that is further than 100 feet from the ESHA where such development poses adverse impacts to the habitat.

Preliminary Recommendation 4.10: Evaluate Economic Backed Expectations before Concluding that Avoidance is not Possible due to "Takings" Concerns

- Where a non-resource dependent use is proposed in or adjacent to ESHA, and no alternative to avoid ESHA impacts is available, require applicant to provide the following information for all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application:

  1. Date the applicant purchased or otherwise acquired the property, and from whom.

  2. The purchase price paid by the applicant for the property.

  3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.

  4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.

  5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in 4 above, that applied to the property at the time the applicant acquired it, or which may have been imposed after acquisition.

  6. Any changes to the size or use of the property since the time the applicant purchased it, including a discussion of the nature of the changes, the circumstances and the relevant dates.

  7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.

8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.

9. Any offers to buy all or a portion of the property which the applicant solicited or received since the time of purchase, including the approximate date of the offer and the offered price.

10. The applicant's cost associated with ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt services costs (such as mortgage and interest costs), and operation and management costs.

11. Apart from any rent received from leasing all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

- In order to approve a non-resource dependent development within ESHA or its setbacks, the following findings should be made and accompanied by supporting evidence:

  1. Based on the economic information provided by the applicant, as well as other relevant evidence, a resource dependent use would not provide an economically viable use of the applicant's property.

  2. Restricting development on the applicant's property to a resource dependent use would interfere with the applicant's reasonable investment-backed expectations.

  3. The amount of development represents the minimum necessary to provide the applicant with an economically viable use of his or her property.

- Provide exceptions to the above requirements for development on lots where ESHA issues are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Preliminary Recommendation 2c, above).

Preliminary Recommendation 4.11: Minimize the Intensity of Non-Resource Dependent Development to the Maximum Degree Feasible

- Where an analysis of the information required under Preliminary Recommendation 4.10 yields a conclusion that a non-resource dependent use must be accommodated, require that such development be limited to minimum required to avoid a taking. In most cases, this will be one modestly sized residential dwelling per existing lot, even if the maximum intensity of development otherwise allowed by the underlying land use designation is greater.

- Prohibit access roads that disturb ESHA unless the road is necessary to provide an economically viable use of the overall development plan area.

Preliminary Recommendation 4.12: Establish Maximum Disturbance Limitations

- Incorporate new standards into the Area Plans that establish maximum disturbance envelopes for unavoidable non-resource dependent development in ESHA. For example, in rural areas, a maximum disturbance envelope of 0.25 acres or ¼ the lot area, whichever is less, should be considered. Such standards should be customized to the particular circumstances of the area, considering factors such as the size and configuration of lots, biological sensitivity and resource management principles, agricultural viability, and other coastal resources constraints (e.g., visual).

Preliminary Recommendation 4.13: Require Conservation Easements/Deed Restrictions Over All ESHA Outside Development Envelope

- Where non-resource development must be accommodated within or adjacent to ESHA, minimize the long-term impacts of such development by requiring all ESHA on the project site outside of the development envelope to be restricted to natural resource management, restoration and enhancement.

- Submit such easements and deed restrictions for the review and approval of the California Coastal Commission Executive Director pursuant to Section 13574 of the California Code of Regulations.

Preliminary Recommendation 4.14: Coordinate Review of Projects that Pose Impacts on Listed Species with DFG, USFWS, and NMFS

- Information that should be provided to justify the findings required by Section 23.07.170b (i.e., that significant adverse impacts to the habitat will be avoided) include: concurrence of the Department of Fish and Game and/or U.S Fish and Wildlife Service if species listed under state or federal Endangered Species Act are involved; and, concurrence from the National Marine Fisheries Service if marine habitats are involved.

Preliminary Recommendation 4.15: Specify Mitigation Requirements[19]

- Require on-site mitigation for development *adjacent* to ESHA. Where the impacts to ESHA posed by adjacent development have been avoided and minimized, but still pose adverse affects, mitigate by requiring implementation of an on-site habitat management, restoration, and enhancement program.

- Require on-site <u>and</u> off-site mitigation for development *within* ESHA. Where development directly in an ESHA can not be avoided, and has been minimized to the

[19] E.g, CZLUO Sections 23.07.170a(1) and 23.07.174d(2)(ii)

greatest degree feasible, protect all ESHA outside the development envelope by implementing an on-site habitat management, restoration, and enhancement program. In addition, require off-site mitigation to offset the reductions in habitat quantity and quality attributable to the development. In most cases, this should be in the form of acquiring and permanently protecting the same type of habitat, in an area otherwise threatened by development. The size and habitat quality of the off-site mitigation area should be of equal or greater biological productivity as the area of impact. Incorporation of in-lieu fee programs into the LCP to implement such off-site mitigation is an option.

Preliminary Recommendation 4.16: Specify Mitigation Monitoring and Evaluation Requirements

To ensure mitigation effectiveness, established minimum requirements for monitoring and implementation. In general, this should include: preparation of an 5 year implementation and monitoring plan, for the review and approval of the Planning Director, that identifies the specific mitigation objectives and the performance standards that will be used to evaluate success; and, the submission of a report at the conclusion of the 5 year period, again for the review and approval of the Planning Director, that either documents the successful implementation of the mitigation or proposes corrective actions and additional monitoring and reporting that will be implemented until the mitigation objectives have been achieved to the satisfaction of the Planning Director.

C.3. Streams and Riparian Habitats

Overview: Coastal Act Section 30231 requires that the quality and biological productivity of coastal streams be protected, through other means, minimizing wastewater discharges and entrainment, controlling runoff, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In furtherance of this objective, Section 30236 limits channelizations, dams, or other substantial alterations of rivers and streams to:

- necessary water supply projects;
- flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; or
- developments where the primary function is the improvement and fish and wildlife habitat.

Fulfillment of the above policies, and the LCP provisions that are intended to implement them present numerous challenges. First, within the more urbanized areas of San Luis Obispo County such as Cambria and Cayucos, many small streamside properties have limited space to accommodate new residential or commercial development and provide adequate setbacks. Unless aggressive and creative methods are used to minimize the encroachment of such development into riparian areas, the biological productivity and water quality of coastal streams will be adversely affected. In addition to resulting in the direct removal of riparian vegetation and other trees that are critical components of healthy creek habitats, the intrusion of noise, light, domestic pets, urban runoff and debris can have significant adverse affects on the health and ecological functioning of coastal waterways.

Second, the repair, protection, and improvement of existing development in and near coastal streams, unless appropriate regulated, can also degrade riparian habitats. The maintenance and expansion of essential public services (e.g., roadways, bridges, pipelines, and utility lines) that cross and are adjacent to coastal streams pose similar direct and indirect impacts to those discussed above. Other municipal service facilities, such as the power plant in Avila Beach, and facilities owned and operated by the Cambria Community Services District along Santa Rosa and Simeon Creeks, have required construction in and adjacent to coastal streams in order to protect them from flood and landslide damage. Similar protection has been required for a wide range of existing private development, from recreation facilities to domestic wells and residences.

Third, new development in rural areas of the County often necessitates new water wells. Highly constrained water supplies in this area commonly require that wells or other water supply projects be located in close proximity to coastal streams. The construction of these facilities can result in the removal and disturbance of riparian vegetation and habitats, and the long-term use of these wells can have a cumulative adverse affect on flow levels necessary to sustain aquatic life. Even when the wells are appropriately setback from coastal streams, they can adversely affect biological resources by overdrafting and thus lowering local groundwater levels below the root depth of riparian vegetation.

Fourth, new and on-going agricultural, industrial, commercial, and residential development are contributing to the declining health of coastal stream habitats through, among other means the direct removal of riparian vegetation and the discharge of sediments, chemicals, and other pollutants. As further discussed below, the build up of sediments in creeks, as well as elevated levels of pollutants such as MTBE, pose significant threats to the biological health and productivity of these habitats. The construction of dams, new bridges, and/or expansion of existing bridges necessary to meet fire protection requirements, can similarly disturb riparian resources, interfere with fish passage, as well as add new sources of urban pollutants.

Finally, the effective protection of coastal streams and riparian habitats cannot be accomplished through the regulation of development in the coastal zone alone. Indeed, development throughout the various watersheds (which in many cases extend inland of

the coastal zone boundary) has a cumulative impact on the overall health of coastal streams. While a review of the regulations addressing inland development is beyond the scope of this review, there may be opportunities to encourage and facilitate watershed based planning and protection efforts through future updates to the LCP.

The coastal streams of San Luis Obispo County and the riparian resources they support are extremely important components of the Central Coast's natural heritage. In addition to providing habitat for numerous rare and endangered species (e.g., Steelhead trout, red-legged frog, southwestern pond turtle), they are scenic and recreational resources, and a primary source of water for domestic and agricultural uses. These corridors of flowing fresh water are dominant forces that shape landforms, ecotones, and development patterns.

The biological significance of riparian habitats is profound. It has been estimated that over half of breeding birds in many areas, and over eighty percent of reptiles and amphibians, are associated with riparian habitat.[20] Riparian vegetation plays a critical role in supporting this diverse assemblage of wildlife that can by providing food and shelter, as well as by regulating stream temperatures necessary to maintain healthy fish populations. Stream side vegetation also helps prevent erosion, trap sediments, and filter pollutants that degrade water quality and smother underwater habitat and fish spawning grounds.

Unfortunately, the biological health and productivity of the coastal streams up and down the west coast of the United States appear to be on the decline. In December of 1997 the US Fish and Wildlife Service listed the Steelhead trout as a federally threatened species.

As described above, there are many ways in which new development may be contributing to this decline. These impacts can be especially severe in the relatively small watersheds characteristic of coastal San Luis Obispo County; riparian areas in smaller watersheds tend to be disproportionately affected by the hydrologic changes and increased sedimentation associated with overgrazing or other human activities.[21]

Partly in response to the critical situation facing many native riparian resources, great strides have been made throughout the state and nation in recent years towards comprehensive watershed planning and protection. These efforts have led to the development of specific Best Management Practices that can be implemented to avoid and minimize polluted runoff, coordinated monitoring and volunteering programs that enhance the public's understanding and stewardship of riparian resources, and improved regulatory procedures for achieving effective resource protection and enhancement. This new information can be used to better implement the existing LCP policies protecting coastal streams and riparian habitats, and update them where necessary.

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[20] Faber and Holland, *Common Riparian Plants of California*, p.7, Pickleweed Press, Mill Valley, CA, 1988
[21] ibid, p.3

LCP Implementation

The Coastal Plan Policies component of the LCP contains 9 policies specifically regarding Coastal Streams (LCP Policies 18 –16 for Environmentally Sensitive Habitats), all but one of which are implemented by Section 23.07.174 of the CZLUO. (The one policy that is not implemented by Section 23.07.174 is Policy 22, which allows the Department of Fish and Game to institute a voluntary program to control grazing impacts on coastal streams.)

Notwithstanding the references to CLUO Section 23.07.174, four of these stream policies are considered "standards" (i.e., they have equal or greater standing as an ordinance). These include:

Policy 18, which states:

> *Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved.*

Policy 19, providing:

> *Development adjacent to or within the watershed (that portion within the coastal zone) shall be sited and designed to prevent impacts which would significantly degrade the coastal habitat and shall be compatible with the continuance of such habitat areas. This shall include an evaluation of erosion and runoff concerns.*

Policy 20:

> *Significant streambed alterations require the issuance of a California Department of Fish and Game 1601-1603 agreement. The Department should provide guidelines on what constitutes significant streambed alterations so that the county and applicants are aware of what is considered a "significant" streambed alteration. In addition, streambed alterations may also require a permit from the U.S. Army Corp of Engineers.*

And, Policy 21, which provides:

> *The State Water Resources Control Board and the county shall ensure that the beneficial use of coastal stream water is protected, for projects over which it has jurisdiction. For projects which do not fall under the review of the State Water Resources Control Board, the county (in its review of public works and stream alterations) shall ensure that the quantity and quality [of] surface water discharge from streams and rivers shall be*

> *maintained at levels necessary to sustain the functional capacity of streams, wetlands, estuaries and lakes.*

CZLUO Section 23.07.174, which is intended to implement these and 4 other policies for coastal streams, generally reiterates Policies 18 and 19 above, and limits channelizations, dams or other substantial alteration of stream channels to:

> (1) Water supply projects, provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries, and lakes.
>
> (2) Flood control Projects, where such protection is necessary for public safety or to protect existing commercial or residential structures, where no feasible alternative to streambed alteration is available;
>
> (3) Construction of improvements to fish and wildlife habitat;
>
> (4) Maintenance of existing flood control channels.
>
> Streambed alterations shall not be conducted unless all applicable provisions of this title are met and if applicable, permit approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, and California State Water Resources Control Board.

Section 23.07.174 also provides the following 3 important additional regulations:

Part c of this section regulates stream diversion structures in the following manner:

> *Structures that divert all or a portion of streamflow for any purpose, except for agricultural stock ponds with a capacity of less than 10 acre-feet, shall be designed and located to not impede the movement of native fish, or to reduce streamflow to a level that would significantly affect the production of fish and other stream argnisms.*

Part d establishes the following standards for riparian setbacks:

> *New development shall be setback from the upland edge of riparian vegetation a minimum of 50 feet within urban areas (inside the USL) and*

100 feet in rural areas (outside the USL), except as provided in subsection b. of this section, and as follows[22]*:*

(1) Permitted uses within the setback: Permitted uses are limited to those specified in Section 23.07.172d(1) (for wetland setbacks, provided that the findings required by that section can be made.[23] *Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses.*

(2) Riparian habitat setback adjustment: The minimum riparian setback may be adjusted through Minor Use Permit approval, but in no case shall structures be allowed closer than 10 feet from a stream bank, and provided the following findings can first be made:

(i) Alternative locations and routes are infeasible or more environmentally damaging; and

(ii) Adverse environmental impacts are mitigated to the maximum extent feasible; and

(iii) The adjustment is necessary to allow a principal permitted use of the property and redesign of the proposed development would not allow the use within the standard setbacks; and

(iv) The adjustment is the minimum that would allow for the establishment of a principal permitted use.

Finally, part e limits "cutting or alteration of natural vegetation that protects a riparian habitat" to:

(1) Streambed alterations allowed by subsections a and b;

(2) Where no feasible alternative exists;

(3) Where an issue of public safety exists;

(4) Where expanding vegetation is encroaching on established agricultural uses;

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[22] In addition to the exceptions provided in this ordinance, lesser setbacks are also permitted pursuant to Area Plan standards, which supersede the provisions of the CZLUO.

[23] The uses permitted in wetland and stream setbacks pursuant to this section are "passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads where it can be demonstrated that: (I) Alternative routes are more environmentally damaging. [And,] (ii) Adverse environmental effects are mitigated to the maximum extent feasible."

(5) Minor public works projects, including but not limited to utility lines, pipelines, driveways and roads, where the planning director determines no feasible alternative exists;

(6) To increase agricultural acreage provided that such vegetation clearance will:

(i) Not impair the functional capacity of the habitat;

(ii) Not cause significant streambank erosion;

(iii) Not have a detrimental effect on water quality or quantity;

(iv) Be in accordance with applicable permits required by the Department of Fish and Game.

(7) *To locate a principally permitted use on an existing lot of record where no feasible alternative exists and the findings of Section 23.07.174b can be made.*[24]

The CZLUO grading ordinance also has important provisions regarding grading near streams. Section 23.05.034f provides:

Grading dredging or diking (consistent with Section 23.07.174) shall not alter and intermittent or perennial stream, or natural body of water shown on any USGS 7-1/2 minute map, except as permitted through approval of a county drainage plan and a streambed alteration permit from the California Department of Fish and Game issued under Sections 1601 or 1602 of the Fish and Game Code. (Additional standards are contained in Sections 23.07.172 [for wetlands] through 174 [for streams] of this title. Watercourses shall be protected as follows:

(1) Watercourses shall not be obstructed unless an alternate drainage facility is approved.

(2) Fills placed within watercourses shall have suitable protection against erosion during flooding.

[24] The reference to Section 23.07.174b appears to be a typographical error, since this section identifies the limited situations under which streambed alterations can be permitted. It is likely that the intended reference is part b of Section 23.07.170, which requires the following findings for the approval of *development within or adjacent to ESHA:*

(1) There will be no significant impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

(2) *The proposed use will not significantly disrupt the habitat.*

(3) Grading equipment shall not cross or disturb channels containing live streams without siltation control measures approved by the County Engineer in place.

(4) Excavated materials shall not be deposited or stored in or along a watercourse where the materials can be washed away by high water or storm runoff.

In addition to the above policies and ordinances, the four area plans provide standards for development near streams. For example, the North Coast Rural Area Combining Designation Standard 6 for Arroyo de la Cruz limits development in or adjacent to this creek as follows:

No development is permitted unless it is agriculturally related, for water diversion projects, coastal accessways, or water wells and impoundments.

North Coast Planning Area Standards 8 and 9 for Rural Recreation areas regulate development near Van Gordon Creek as follows:

8. *Limitations on Use. Uses are limited to: recreation vehicle park and support facilities; coastal accessways; water wells and impoundment[s]. (This is a visitor-serving priority area.)*

9. *Site Planning. Development shall be setback and buffered from the riparian vegetation along Van Gordon and "Warren" Creeks for a minimum of 100 feet. Uses within the buffer area shall be limited to passive recreation, (including nature study, and educational and scientific research). No permanent structures shall be allowed within the buffer. Fences and signs to limit access to the buffer and sensitive habitat area shall be constructed with any recreational development.*

Standard 10 of the same section applies to future development on the Hearst Ranch, and requires such development to be phased in a manner that addresses, among other things, available water supplies. To ensure that water withdrawals from the Arroyo de la Cruz or San Carpoforo watersheds associated with such development does not adversely affect coastal resources, the review of each phase of development must include:

a. *The preparation of a hydrological monitoring program and analysis as outlined in the State Water Resources Control Board Water Application No. 25881, based upon a one year ground-water and surface flow data base and all available rainfall and run-off data which projects the ability of water for out-of-stream uses consistent with the protection of in-stream uses (e.g., anadromous fish) over the life of the development(s), and*

b. *Biological assessments and analysis to determine the effect of the water extraction on the biological resources which are dependent on the waters*

of Arroyo de la Cruz Creek (or San Carpoforo Creek if this creek or its groundwater basin is used as a water source).

For the urban areas of the North Coast, the Area Plan provides the following standards:

- On the East West Ranch, as well as within the Recreation land use designation, no development is allowed within the floodway, stream, or riparian corridors except for "crossing bridges" or pedestrian and bicycle paths where no feasible, less environmentally damaging alternative exists. In such cases, impacts of stream crossings must be "mitigated to the maximum extent feasible". All public improvements on the East West Ranch must be setback a minimum of 50 feet from the inland extent of riparian vegetation along Santa Rosa Creek, with provisions for access trails within the buffer area. (Communitywide Standards 8a and 9 and Recreation Standard 25).

- In the Recreation Land Use Category for Cambria's East Village, Development, parking drives and spaces must be setback 50 feet from the edge of riparian vegetation or top of the bank of Santa Rosa Creek, whichever is greater. (Recreation Standard 23.) Exceptions to this standard may be allowed "as stated by Standards 21 and 22". Although it is not exactly clear under what circumstances Standards 21 and 22 would allow for such exceptions, one interpretation is that such exceptions can be granted when needed to maintain a consistent architectural character, and where encroachments into the setback is needed to elevate development above the flood plain.

The Estero Area Plan does not provide additional standards for streams in the rural area, but does establish the a setback standards for a wastewater treatment facility previously proposed, but never constructed in a rural area near Los Osos. Since the current wastewater treatment proposal does not involve this site, this standard is moot.

For the Cayucos Urban Area, Combining Designation Standard 1 for Sensitive Resource Areas contained in the Estero Area Plan establishes the following setback standards:

Setbacks – Coastal Streams. Development shall be setback from the following coastal streams the minimum distance established below. Such setbacks shall be measured from the outer limits of riparian vegetation or the top of the stream bank where no riparian vegetation exists. This may be adjusted through the procedure provided in the Coastal Zone Land Use Ordinance.

Cayucos Creek:	*25 feet from either bank*
Little Cayucos Creek:	*20 feet from either bank*
Old Creek:	*50 feet from either bank*

Willow Creek:[25] *20 feet from either bank north of Ocean Avenue*

In the South Bay Urban Area, Residential Suburban Standard 1 of the Estero Area Plan limits uses in the area adjacent to Los Osos Creek by prohibiting special uses otherwise allowed by Table O, except for:

> *Ag accessory structures; animal raising and keeping; home occupations; residential accessory uses; temporary dwellings; accessory storage; participant sports and active recreation; coastal accessways; water wells and impoundments; pipelines and power transmission; and public utility centers.*

Pursuant to Standard 2, these and other permitted uses must:

> Maintain a minimum building setback of 50 feet for development on lots adjacent to riparian areas along Los Osos Creek and Eto Lake.

Overview of Approved Development

Between the time the County assumed coastal permitting authority (March 1, 1998) and January 1, 1999, the Commission staff received approximately 78 Final Local Action Notices for development approved by the County on sites containing the Streams and Riparian Vegetation (SRV) Combining Designation Overlay. Commission staff's review indicates that additional local permits have likely been authorized that raised riparian habitat issues. One of the reasons for this discrepancy may be that the SRV Combining Designation does not map all the coastal stream courses. Another, but related reason may be that in order to meet the LCP's definition, a stream must be mapped on the most recently published United States Geological Survey (USGS) map.[26]

Of the 79 permits identifying development on or next to an SRV designation, 25 involved development(s) within the riparian setback required by the LCP,[27] and an additional 22 permits involving structural development (i.e., not lot line adjustments) did not identify the setback distance provided by the development.

[25] Notwithstanding this standard, Standard 7 for the Residential Single Family category requires "residential development on the eastern portion of APN 64-275-24 (Tract 1078)(Schmitz) shall be setback and buffered from Willow Creek a minimum of 50 feet and shall not allow development within the 100 year flood plain. Any development shall be clustered so as to minimize habitat and scenic/visual quality impacts."

[26] Appendix C of Coastal Plan Policies, Page C-3

[27] Unless otherwise established by Area Plan, the standard riparian setback is 50 feet from the edge of riparian vegetation in urban areas, and 100 feet in rural areas, per CZLUO Section 23.07.174d

For those permits that did identify development within the standard setbacks, 5 involved new or improved roads;[28] 7 involved residential, commercial, or private recreation facilities; 9 involved the armoring of streambanks and/or bridge footings;[29] 1 involved habitat restoration; 1 involved a public facility, and 3 involved new wells. A review of these permits raises the following issues important issues regarding to the way in which the County has implemented the stream protection provisions of the LCP.

Identification of Riparian Resources: As described above, the LCP relies of the Combining Designation and USGS maps to determine where a new development proposal must comply with LCP stream protection provisions, but is silent on how these provisions may apply to unmapped streams. As a result, some riparian habitats may not be afforded the protection needed to achieve the habitat protection and enhancement objectives of the LCP and Coastal Act.

Such a situation appears to have been faced in the processing of Minor Use Permit D950077P, involving the development of a new residence and driveway in a rural area northeast of the town of Harmony and near Highway 46. In addition to the mapped SRV Combining Designation located on the property, an "incised stream channel" was identified by the geotechnical report completed for the project. There was no evaluation of whether riparian setback and habitat protection provisions should be applied to this stream channel, and rather than applying the standard 100 foot creek setback, the project was setback 20 feet from the channel as recommended in the technical report.

The same problem was identified when the Commission considered an appeal of a motel approved by the County that involved development within 10 feet of an unmapped stream in Cambria, and a driveway crossing this creek (local permit D930204D; CCC Appeal No. A-3-SLO-96-021). Again, the County did not apply the standard 50' foot setback from *mapped* SRV Combining Designations in urban areas as required by the LCP. Instead, riparian habitat and setback issues were evaluated under the California Environmental Quality Act and in consultation with the Department of Fish and Game. As a result of this review, the County determined the proposed 10-foot setback and driveway creek crossing would adequately protect environmental resources with implementation of specific mitigation measures. The Commission concurred with this action on appeal, primarily because LCP setback standards could not be applied due to the fact that the stream was not mapped as an SRV Combining Designation.[30]

Streambed Alterations: Of the 76 permits noticed to the Commission staff involving development in or adjacent to areas with a mapped SRV combining Designation, 12

[28] Minor Use Permits D970277P, D940210P, D950077P, and D950049P; and Development Plan D870182D

[29] Minor Use Permits D980042P, D980041P, D980038P, D970067P, D970064P, D960019P, D950007P, and D910287P; Development Plan D930158D

[30] This action occurred prior to the Commission's consideration of an appeal of the Los Osos Wastewater Treatment Project (A-3-SLO-97-040), where the Commission determined that LCP ESHA provisions should be applied irrespective of the Combining Designation maps.

projects appear to have involved some alteration of the natural flow and characteristics of a coastal stream. Nine of these alterations occurred through the installation of rip rap (i.e., large rocks), while the three others involved the placement of culvert(s) needed to accommodate new or expanded roads and driveways across creeks.

Such streambed alterations can adversely impact of riparian habitats in a number of ways. The rocks' footprint consumes habitat area, thereby reducing areas of biological productivity. In addition, the rocks alter stream flows and modify the natural process of erosion and deposition, which can effect fish spawning and streamside habitats. More broadly, the establishment of "hard edges" precludes the natural migration of otherwise dynamic stream channels, which in turn can limit the width, and therefore the biological productivity, of the riparian habitat in the vicinity of the revetment.

Based on these potentially significant impacts, the Coastal Act and the LCP (i.e., CZLUO Section 23.07.174b allow streambed alterations for limited reasons and under specific circumstances. Thus, one of the first and most critical steps in analyzing a streambed alteration project for conformance with the LCP is determining if the purpose of the project meets the criteria of Section 23.07.174b. However, while most of the Final Local Action Notices for streambed alteration projects listed Section 23.07.174 as an applicable ordinance, **none** provided a specific analysis of why the streambed alteration could be allowed under part b.

The purposes of the streambed alteration projects approved by the County were to:

- protect bridges across San Simeon and Santa Rosa creeks in the North Coast planning area and across Villa Creek and San Bernardo Creek in the Estero Planning area;[31]

- protect public facilities along Santa Rosa, San Simeon and Van Gordon Creeks (all in the North Coast Planning Area);[32]

- protect tennis courts and an archaeological site beneath the tennis courts[33] along San Luis Obispo Creek;

- protect agricultural land along Los Osos creek in Estero,[34] in coordination with the Soils Conservation Service;

- increase the flood capacity of Santa Rosa Creek beneath the Highway One bridge in Cambria;[35] and

[31] Minor Use Permits D980042P, D980041P, D980038P, and D970064P
[32] Minor Use Permits D970067P, D960019P, and
[33] Minor Use Permit D950007P; this project also obtained a coastal development permit from the California Coastal Commission.
[34] Minor Use Permit D910287P
[35] Development Plan D930158D

- accommodate new or improved roadway crossings.[36]

Arguably, the 7 projects involving the protection of bridges, public facilities, and the flood capacity of Santa Rosa Creek were necessary either for public safety reasons or to protect existing commercial or residential structures. However, to be allowable under Section 23.07.174b, these projects had to be the only feasible alternative (i.e., no options to streambed alteration was available). This important requirement was not specifically addressed during the local review of these projects. In the case of the flood control project designed to protect existing and commercial and residential from flooding by Santa Rosa Creek (D930158d), inadequate consideration of alternatives that would avoid or minimize streambed alterations resulted in the project being denied on appeal to the Commission (A-3-SLO-95-12).

The rip rap structure constructed along Los Osos Creek to prevent the erosion of agricultural land, and designed in coordination with the Soils Conservation Service (currently known as the Natural Resources Conservation Service), could potentially be considered allowable as an improvement to fish and wildlife habitat. This is due to the fact that the erosion of agricultural soils can contribute sediments and pollutants to coastal streams, thereby smothering natural habitats and degrading water quality. The potential environmental benefits of this project, versus its potential adverse impacts, were not, however, analyzed by the local staff report.

The other streambed alteration project involving the installation of rip rap, approved by both the County and the Coastal Commission, may have been considered allowable as "flood control projects", but did not meet the test of being for "the protection of existing commercial or residential structures". Nevertheless, it was intended, in part, to protect cultural resources that had been previously excavated and placed in this hazardous location as fill. Given the fact that these resources had been previously disturbed (i.e., their original placement, which can be important from an archaeological standpoint, had already been altered) it seems that an alternative of relocating the tennis court and the cultural artifacts should have been considered.

Perhaps the most significant inconsistency with the limits to streambed alterations established by the LCP is the construction of new or expanded private roadways across coastal streams. The alteration of streams for such purposes is prohibited by Section 23.07.174b of the CZLUO and Section 30236 of the Coastal Act. Yet, the County approved such access routes on at least 3 occasions:

- In D970277P, a new driveway crossing involving a culvert and rip rap protection was allowed to cross a tributary to Chorro Creek. No discussion of alternative siting options on the 10.6 acre site that could have eliminated the need for such a crossing was included in the local staff report.

[36] Minor Use Permits D970277, D940210P, and D950049P

- D940210P involved the development of a new residential estate on a 120 acre site in the Rural Lands area north of Cambria. To obtain access to the development site, a new driveway and expanded culvert across Leffingwell creek was proposed. Although a less environmentally damaging access route that did not involve culverting the creek was documented, the County approval allowed the applicant to use either route.[37]

- D950049P involved the conversion of a portion of an existing residence to a winery that necessitated the expansion of an existing roadway, including at its crossing of Ellysly creek. No evaluation of impacts to riparian resources associated with this improvement was contained in the County staff report accompanying the FLAN.

While the above decisions appear to be deficient in carrying out the LCP's limitations on streambed alterations, it is possible that they may have been influenced by a perceived obligation to accommodate an economic use of private property. However, the facts of these cases do not indicate that this was a legitimate concern; alternative routes that would not impacts streams may have been available in D970277P and D940210P, and an economic use (i.e., residential) had already been accommodated on the property involved in D9500049P.

Finally, for those streambed alterations that are determined to be necessary and allowable, coordination with the California Department of Fish and Game (DFG), and other applicable regulatory agencies, is required by ESHA Policy 20 as well as CZLUO Section 23.07.174. Yet out of the 12 projects that seemingly involved streambed alterations, only 4 addressed the need to obtain DFG approval in either the staff report or conditions of approval.

Riparian Setbacks: In addition to the projects involving streambed alterations discussed above, the Commission staff was noticed of 12 permits between 1988 and 1998 involving development within the standard stream setbacks required by the LCP. This included 2 roadways,[38] 1 horse jumping course,[39] 3 residential structures,[40] 3 commercial facilities,[41] 3 private wells,[42] and 1 public facility (Cayucos Water Treatment Plant).[43] (This totals 13 developments, as compared to 12 permits, because Minor Use Permit D950077P authorized both a new road and residence within the setback area.)

Of these developments, the following could be considered allowable uses within the setback area under Sections 23.07.174d of the CZLUO:

[37] The alternative access route, not the creek crossing, has since been constructed.
[38] Minor Use Permit D950077P and Development Plan D870182D
[39] Minor Use Permit D870297P
[40] Minor Use Permits D950201P, D950077P, and D930164P
[41] Minor Use Permits D960072P, D910107P, and D900370P
[42] Minor Use Permits D930241P, D910210P, and D900254P
[43] Minor Use Permit D940208P

- roads, where there are no feasible less environmentally damaging alternatives and adverse effects are mitigated to the maximum extent possible;

- water supply projects, provided that the quantity and quality of water from streams are maintained at levels necessary to sustain the functional capacity of streams, wetlands, and estuaries;

- and, equestrian trials.

All other uses would need to be granted a riparian setback adjustment pursuant to Section 23.07.172d(3) of the CZLUO.

In the case of D870297P, the proposed "horse-riding course" may have been allowed based on the LCP's allowance of equestrian trails within riparian setback areas, although the findings and analysis for the approval did not specifically discuss this issue. The local staff report did, however, prohibit the installation of permanent structures, allowing only "movable horse jumping obstacles". Notwithstanding this restriction, the high level of use associated with such an obstacle course, compared to the lower intensity of use associated with a typical equestrian trail, poses greater impacts to riparian resources (i.e., erosion and sedimentation). While the County conditioned the project to protect and restore the riparian habitat on the project site by requiring the applicant to discontinue grazing activities within 100 feet of the creek, the allowance of the jumping course does not appear to be in compliance with applicable setback standards.

In cases involving new or improved roads, the applicant must demonstrate that alternative routes are infeasible or more environmentally damaging, and that adverse environmental effects are mitigated to the maximum extent feasible, pursuant to Section 23.07.174d of the CZLUO. D950077P included a new driveway within 20 feet of a coastal stream. The limited information accompanying the FLAN for this project did not include an analysis of alternative routes. The absence of an SRV Combining Designation for this stream may have been a contributing factor to the absence of such an analysis.

In the other case involving a roadway within the required riparian setbacks (D870182), the presence of the SRV Combining Designation was identified in the staff report but again the required analysis of alternative access routes was not provided. This was likely due to the fact that the authorized the development (a commercial aquaculture operation approved "after-the-fact") used an existing agricultural road located not only adjacent to riparian habitat, but partly *within* a wetland area associated with Villa Creek. As acknowledged by the County staff report, the 31 full time employees, daily van trips, and weekly truck trips associated with the project significantly intensified the use of this road. Based on this intensification, and the impacts it posed on the adjacent creek and wetland (e.g., erosion, polluted runoff), alternative routes consistent with setback requirements should have been considered, but were not.

Instead, the County conditioned the project to revegetate and stabilize disturbed areas of the site, including the access road. Recent visits to the region by Commission staff indicate that no such landscaping has been installed in the sensitive areas of this access road, which is clearly visible from Highway One. The local permit also required the project's impacts on various sensitive habitats occurring on and adjacent to the site, including coastal streams and riparian vegetation, to be reviewed by the Planning Commission within 10 years of approval (i.e., by February 23, 1999). Such a review has not yet been undertaken.

Finally, with respect to water supply projects, the County approved 3 new wells and a water treatment facility within riparian setback areas. None of these permits provided an analysis of their impact on the quality and quantity of stream waters, as required by CZLUO Section 23.07.174b(1). In addition, although not specifically required by the LCP, there was no analysis whether alternative locations outside of the riparian setback areas were feasible. Such an evaluation appears to have been particularly warranted during the processing of a permit for a water treatment facility in Cayucos that was less than 10 feet from the creek bank in some areas, and involved the removal of 300 square feet of riparian vegetation (Minor Use Permit D940208P).

As provided by Section 30236 of the Coastal Act, the alteration of rivers and streams must be limited to <u>necessary</u> water supply projects; an important qualification that is absent from the provisions of CZLUO Section 23.07.174. Consistent with this approach, and the intent of CZLUO Section 23.07.174 to protect the natural hydrological system and ecological function of coastal streams, water supply projects that can feasibly located outside of stream setbacks should be limited to such areas. Water supply projects that can not meet these setbacks should be limited to those that are essential to protecting and maintaining public drinking water supplies where there is no feasible less environmentally damaging alternative.

As opposed to the specific uses allowed within riparian setback areas discussed above, other permanent structures (e.g., residences, commercial buildings, and public facilities) are not allowed within riparian setbacks unless the setbacks are adjusted according to the specific provisions of CZLUO Section 23.07.174d(2). Yet at least two developments that are not allowed in setback areas were permitted without the granting of an adjustment.

One was for the residence permitted by D950077P, which as discussed above, was within 20 feet of a stream that was not mapped as an SRV Combining Designation. The other involved the demolition of an existing bed and breakfast's laundry facility and manager's unit, and replacing them with a new laundry facility, kitchen, and manager's unit. Portions of these replacement facilities encroached within 12 feet of the Santa Rosa creek bank. No analyses of alternative locations for these facilities outside of the 50 foot riparian setback area was included in the local staff report accompanying the FLAN for this permit. The County did, however, attach conditions to limit the impact of construction of these facilities on riparian resources (e.g., construction fencing, prohibiting the alteration of the stream or riparian vegetation).

Setback Adjustments: The consistent implementation of riparian setback requirements is an essential ingredient to protecting stream habitats. Nevertheless, particular instances may arise where setback adjustments are needed to accommodate a reasonable use of private property, and/or to avoid adverse impacts to other important coastal resources that may exist on the property. The LCP addresses this by allowing such adjustments pursuant to Section 23.07.174d of the CZLUO. As provided by this ordinance, riparian setbacks can be reduced to 10 feet from a stream bank, provided that the adjustment is the minimum necessary to accommodate a principally permitted use; that there are no feasible, less environmentally damaging alternatives available; and that adverse environmental effects are mitigated to the maximum extent feasible.

Of the developments approved by the County between 1988 and 1998 and noticed to the Commission, approximately four were granted an adjustment to setback standards. A review of these adjustments, particularly those that were granted "after-the-fact" to resolve a violation, raises two major concerns. One, that encroachments into riparian setbacks beyond what is necessary to accommodate a principle permitted use are being approved. And, two, that inadequate consideration is being given to alternatives that would allow for a principally permitted use and still achieve compliance with setback requirements.

The two "after the fact" adjustments involved commercial establishments that had expanded into riparian setbacks the proper permits. In Minor Use Permit D960072P, the County approved the construction of a 1,100 square foot deck and patio addition to a restaurant that encroached within the riparian vegetation of Santa Rosa Creek. In Minor Use Permit D910107P, the County allowed the retention of a parking lot within 10 feet of the bank of Santa Rosa Creek. In both these cases, the County required substantial mitigation for the impacts the development had incurred. Nevertheless, the projects remained inconsistent with riparian setback requirements. An approach that would have been more consistent with the LCP would have been to require compliance with setback standards (i.e., remove of all development within 50 feet of the riparian vegetation that existed prior to the violation), as well as mitigation to offset the impacts incurred by the violation.

The two other adjustments involved the development of single family residences on fairly small and constrained lots in the urban area of Cayucos. D950201P permitted the development of a 1490 square foot single family dwelling with a 380 square foot garage 10 feet from the bank of Willow Creek, and D930164P authorized the construction of a 2,448 square foot house and attached garage 10 feet from the bank of Old Creek. The home adjacent to Old Creek necessitated the removal of 4 willow trees, which the County required to be replaced at a 2:1 ratio. The home next to Willow Creek included a deck that cantilevered into the setback area, and required trimming of 250 square feet of the riparian vegetation canopy. The County required the planting of willow trees in this case as well, in an amount that achieved 2:1 replacement. It is unclear how this ratio was to be implemented based on the fact that the project was trimming not removing vegetation, but it is assumed that two trees had to be planted for every willow tree trimmed.

While the above adjustments may have been necessary to accommodate the principally permitted residential use, it is not clear that they represented the minimum adjustment necessary (CZLUO Section 23.07.174d(2)(iv)). The County staff reports for these projects did not include an evaluation of whether a redesign of the project, or a reduction in square footage, would minimize encroachments into riparian habitats and still allow for a reasonable use of the property. Notwithstanding this problem, the County should be credited with requiring appropriate conditions to mitigate for the impacts of the development, including revegetation monitoring and the implementation of erosion and sedimentation control. An open space easement over the riparian area was also required in D950201P. On this point, it appears that a more specific description of what constitutes the "maximum feasible mitigation" required for adjustments should be provided by the LCP.

Other Policy Issues: The Commission staff's experience indicates that there are other areas where an update to LCP policies may be appropriate. As discussed above, the Coastal Act provides stringent standards regarding the alteration of coastal streams and rivers. This includes limiting such alterations to necessary water supply projects, among other specified uses. In contrast, the LCP does not limit its allowance of water supply projects to those that are necessary (CZLUO Section 23.07.174b(1)). The LCP also exempts stream diversion structures that supply water to agricultural stock ponds of under 10 acre-feet from CZLUO Section 23.07.174c. This important standard requires diversion structures to be designed and located in a manner that avoids impediments to the movement of native fish and reductions in streamflows that would adversely affect fish and other stream organisms. It is questionable whether this exemption carries out the Coastal Act requirement that *all* allowable stream alterations incorporate the best mitigation measures feasible (Section 30235).

Another potential problem of the LCP standards for streambed alterations is that is permits such development for the purpose of maintaining existing flood control channels (CZLUO Section 23.07.174b(4). While Section 30236 of the Coastal Act allows streambed alterations for flood control projects, such projects are limited to instances where "no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development". Clearly, the maintenance of existing flood control channels will, in most instances, meet this criteria, and therefore be allowable under Section 23.07.174b(2) of the CZLUO. There is the potential, however, that a project intending to establish a greater flood capacity within a channel supporting important wildlife habitat, could be proposed for purposes other than public safety or the protection of existing development (e.g., to prevent the flooding of agricultural or private undeveloped lands). Due to this potential Coastal Act conflict, and that the ability to implement necessary flood control projects is appropriately addressed by part 2 of CZLUO Section 23/07.174b, elimination of part (4) of this ordinance should be considered.

Also of concern is one of the standards regarding the alteration of riparian vegetation contained in Section 23.07.174e of the CZLUO. Part (7) of this ordinance permits the cutting or alteration of riparian vegetation "to locate a principally permitted use on an

existing lot of record where no feasible alternative exists and the findings of Section 23.07.174b can be made". The problem is that the referenced section does not specify any required findings.

Preliminary Policy Alternatives:

Stream Alterations:

Preliminary Recommendation 4.17: Pursue changes to Section 23.07.174b of the CZLUO to achieve conformance with Coastal Act Section 30236, as well as with ESHA Policy 23.

- The introduction of this ordinance should specifically require that all permitted streambed alterations employ the best mitigation measures feasible. A reference to the updated section of the LCP addressing mitigation requirements, as proposed by Preliminary Recommendations 2l and 2m, should also be provided.

- Part (1) should state that streambed alterations are limited to necessary water supply projects. The incorporation of specific criteria to define what constitutes a "necessary" water supply project should be considered. A preliminary suggestion is to define such projects as those essential to protecting and maintaining public drinking water supplies, or accommodating a principally permitted use where there are no feasible alternatives.

- Part (4), allowing streambed alterations for the maintenance of flood control channels, should be considered for deletion. Necessary maintenance activities can be accommodated under part (2) of this ordinance, which includes the Coastal Act criteria for such activities (part (4) does not include these important criteria).

Preliminary Recommendation 4.18: Delete the exemption for stream diversion structures associated with agricultural stock ponds of under 10 acre feet[44] that may impact stream habitat.

Preliminary Recommendation 4.19: Analyze streambed alterations for conformance with CZLUO Section 23.07.174b.

Preliminary Recommendation 4.20: Improve coordination with the Department of Fish and Game's Streambed Alteration process.

Where possible, streambed alteration agreements should be obtained prior to or concurrent with the County's review of the permit application, rather than as a condition

[44] CZLUO Section 23.07.174c

of approval. This will provide greater opportunity to make adjustment to the project that would better protect the stream habitat.

Preliminary Recommendation 4.21: Pursue Alternatives to Streambed Alterations.

Evaluate alternative access routes to avoid development in a stream (e.g., fill with culvert, bridge support).

Recommendations to Ensure Adequate Setbacks:

Preliminary Recommendation 4.22: Encourage Additional Research Regarding the Effectiveness of Setback Distances[45]

- Such studies appears to be warranted given the apparent decline in the health of riparian resources such as the Steelhead trout, southwestern pond turtle, red-legged frog, and other rare and endangered species. Incorporation of a program that would encourage such studies, potentially in coordination with local universities and/or resource management agencies and organizations, should therefore be considered.

- Pursue individual watershed management programs for coastal streams. Such program could address appropriate setback distances as well as other important riparian and water quality issues.

Preliminary Recommendation 4.23: Apply a Minimum Standard Setback of 100' in Urban Areas where Feasible

- Consider applying a 100' setback, rather than 50' or less, in urban areas where a 100' setback feasible and would achieve better protection of stream resources.

Preliminary Recommendation 4.24: Improve Implementation of Setback Standards and Adjustments.[46]

- Explore and require, unless more environmentally damaging, alternative alignments for new or improved roads and other uses allowed in setback areas that conform to standard setback requirements. For example, consider new alignments to existing non-conforming roads where there may be impacts associated with intensified use or fire safety improvements. If realignment is appropriate, abandonment and revegetation of the pre-existing road should also be required.

- In instances where alternative alignments are not feasible or more environmentally damaging, provide more specific guidance on what is required to mitigate adverse

[45] 100 feet from the edge of riparian vegetation in rural areas, 50 feet in urban areas, and as further specified by Area Plan
[46] CZLUO Section 23.07.174d

effects to the greatest degree feasible (CZLUO Section 23.07.172d(1)(ii), as referenced by 23.07.174d(1)). Please see preliminary recommendations 2l and 2m.

- Critically evaluate "after-the-fact" permit applications where development that has illegally encroached into setback areas. Before off-site mitigation is considered, evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation should be an additional requirement where necessary to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.

Preliminary Recommendation 4.25: Consider Limiting Pedestrian and Equestrian Trails within Riparian Setback Areas to Passive Recreation.

- Where intensive recreational activities may adversely impact ESHA, they should be directed to areas outside of riparian setbacks.

- Where trails are allowed within or adjacent to riparian areas or other ESHA, require the provision of interpretive signing.

Recommendations to Protect Creek Flows and In-Stream Habitats

Preliminary Recommendation 4.26: Incorporate Additional Standards for Stream Diversions and Water Wells

- Prohibit diversion or extraction of surface and subsurface streamflows where adverse impacts to steelhead or other important riparian resources would result.

- Prohibit in-stream barriers to fish migration unless such structure comply with streambed alteration standards and provide effective fish ladders or by-pass systems.

- Where water supply projects have the potential to impact fish habitat or other stream resources, limit diversions to peak winter flows that exceed to amount needed to sustain the resources, and require off-stream storage where year-round water supplies are needed.

- To the degree feasible, water diverted from coastal streams should be treated after use and returned to the watershed of origin in like quality and quantity. Where this is not feasible, supplementation of stream flows with water imported from sources that do not impacts sensitive habitats should be pursued.

Preliminary Recommendation 4.27: Incorporate Additional Standards for Development In and Adjacent to Streams that Provide Habitat for Steelhead Trout

- All permitted development in or adjacent to streams that support steelhead should be designed and conditioned to prevent loss or smothering of spawning gravels and

rearing habitat through, among other means, controlling erosion, avoiding alteration of natural drainage patterns, eliminating sources of pollution, and maintaining streamside vegetation and stream water temperatures.

- Develop standards for the breaching of beach berms that create coastal lagoons (see Preliminary Recommendation 4d)

Other Recommendations

Preliminary Recommendation 4.28: Complete the Follow-Up Review on D870182 for the Aquaculture Facility North of Cayucos

Preliminary Recommendation 4.29: Miscellaneous Policy Clarifications

- Identify the correct reference for CZLUO Section 23.07.174e(7)
- Clarify the intent of CZLUO Section 23.07.174e(2)

C.4. Wetlands

Overview: The Environmentally Sensitive Habitat Chapter of the Coastal Plan Policies contains 13 policies specific to Wetlands (Policies 5 – 17). Of these policies, 3 are Programs, 3 are Standards, and the remaining 7 policies are identified as being implemented (and therefore superseded) by Section 23.07.170-178 of the Coastal Zone Land Use Ordinance. The Programs recommended by the LCP:

- Encourage the California Department of Parks and Recreation, the California Department of Fish and Game, and other public and private sources, to acquire or accept dedications of coastal wetlands. The priorities for acquisition are Sweet Springs Marsh, Santa Maria River mouth, Villa Creek Lagoon, and properties surrounding Morro Bay which include wetland habitat. (Policy 7)
- Encourage the continued use of open space easements or Williamson Act contracts to ensure the preservation of wetlands. The County is to develop guidelines to facilitate the use of open space easements, including "requirements for the length of dedication (i.e., perpetuity or 10 years), appropriate management responsibility, etc." (Policy 8)
- Call for the California Regional Water Quality Control Board to administer programs identified through the "208" nonpoint source studies to ensure protection of coastal wetlands and water quality.

The three wetland Policies that are Standards:

- Regulate the diking, dredging, and filling of wetlands by limiting such activities to those as generally specified by Coastal Act Section 30233(a),[47] and where there is no feasible, less environmentally damaging alternative. Within the wetlands of Morro Bay, these activities are further limited to "very minor incidental public facilities, restorative measures consistent with PRC Section 30411 of the Coastal Act,[48] and nature study" pursuant to Section 30233(c). (Policy 11)

- Require allowable dredging, diking and filing of wetlands to be accompanied by feasible mitigation measures that will minimize adverse environmental impacts, maintain tidal flows, and be consistent with the biological continuance of the wetland habitat. More specifically, the development must avoid breeding and nursery areas during periods of fish migration and spawning; be limited to the smallest area needed to accomplish the project; and, be designed to protect water quality by preventing discharges and using protective measures such as weirs and silt curtains. Dredging and spoils disposal must conform to the provisions of Coastal Act Sections 30233(b) and 30233(d), with the added caveat that dredge spoils may not be deposited in areas where public access or environmental habitats would be significantly or adversely affected. Additional mitigation measures are also required for permitted dredging, filing and diking projects, in accordance with Coastal Act Section 30607.1. (Policy 11)

- Limit mosquito abatement practices to the minimum necessary to protect health and prevent damage to natural resources, and encourage the use of biological control measures. (Policy 12)

- Prohibit vehicle traffic within wetlands, unless necessary to accomplish a permitted use within the wetland. (Policy 13)

Coastal Zone Land Use Ordinance: As noted above, the majority of wetland protection policies are implemented by Section 23.07.172 of the Coastal Land Use Ordinance, which, in addition to Policy 11, provides the primary mechanism for regulating development within and adjacent to wetlands. Other ordinances applicable to wetland protection include Sections 23.05.020 – 039 regulating grading (see section on coastal streams), as wall as sections 23.05.040 - 050 and 23.06.100 – 102 regarding drainage and water quality (please see Water Quality Chapter).

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[47] The LCP Policy can be interpreted as being more restrictive than Coastal Act Section 30233 in that it does not specifically permit the placement of structural pilings for public recreational piers in open coastal waters other than wetlands. However, it is more lenient in that it allows the diking, filing, and dredging of wetlands to maintain flood control facilities, and activity that is not permitted by Section 30233(a) of the Coastal Act.

[48] The purpose of the reference to Section of 30411 of the Coastal Act is unclear, since that section does not specifically address restoration.

LCP Implementation

Approved Development and Related Issues

Of the permits approved by the County and reported to the Commission between 1988 and 1998, approximately 23 identified that development would take place in or adjacent to a Wetland Combining Designation.[49] As previously described, the presence of an ESHA Combining Designation on or adjacent to a development site is the primary means under which LCP habitat protection standards are applied. However, a review of a wider range of local permits reported to the Commission between 1988 and 1998 indicates that an estimated 16 additional permits where the presence of a Wetland Combining Designation was not also identified involved wetland issues.

Of the 23 County permits that authorized development on sites with a Wetland Combining Designation, 7 involved new residential development,[50] 5 involved improvements to existing residences,[51] 1 involved new commercial development,[52] 2 involved improvements to an existing road,[53] 3 involved new wells,[54] 1 involved a lot line adjustment,[55] 2 involved improvements to public facilities,[56] 1 involved the construction of flood protection/erosion control structure,[57] and 1 involved a demolition of a boathouse.[58] The Commission staff's review of these permits has identified the following issues regarding the County's implementation of the LCP's wetland protection standards.

Allowable Uses in and Adjacent to Wetlands

On of the primary ways in which the LCP protects wetland resources is limiting the allowable uses within wetlands and prescribed setback areas (e.g., Environmental Sensitive Habitat Policy 11, CZLUO Section 23.07.172, and various Area Plan Standards). Of the 23 permits described above, approximately 7 allowed development directly within a mapped wetland area, and 3 authorized development within the wetland setback area established by the LCP (not counting the 7 development projects within wetlands, which also involved development in the setback area). 8 of these permits did not identify the distance of the development from the wetland; 2 of these permits appear to have involved development within the required setback.

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[49] Six of these permits (D950007P, D940148P, D940280P, D940220P, D890440P, and D880273P) involved development in the Coastal Commission's original jurisdiction and therefore also required a permit from the Coastal Commission.
[50] D960014P, D940148P, D930164P, D920144P, D890409P, D8880195D, and D880388D
[51] D910260P, D940280P, D940126P, D970231P, D890409P
[52] Development Plan D890631D for a 3 story 100 room hotel in Oceano
[53] D870182D and D90210P
[54] D910210P, D940037P, and D940116P
[55] COAL 93-49
[56] D940220P and D890386P
[57] D950007P
[58] D880273P

For those 7 permits that appear to have permitted development directly within a Wetland Combining Designation, 2 involved new residential development, 2 involved roadway improvements, one involved the installation of a flood protection/erosion control structure, one involved the construction of a new hotel, and one involved the demolition of a boathouse. None of these uses are allowed within a wetland pursuant to ESH Policy 11 and Section 23.07.172b of the CZLUO.

Uses approved within the wetland setback included salt-water monitoring and test wells, new residential development, and improvements to existing residential development. Again, none of these uses are permitted within wetland setbacks under Section 23.07.172d(1) of the CZLUO.

In addition to these permits, a 1999 permit authorized a roadway project and lot line adjustment that involved construction of new roadways within wetland setbacks, and potentially within the wetland resource. As detailed below, the apparent reasons for these inconsistencies include:

- Failure to Identify Wetland Resources
- Inaccurate Delineation of Wetland Habitats
- Inadequate Consideration of Project Alternatives
- Accommodating Expansions or Improvements to Existing Non-Conforming Uses
- Desire to Accommodate Coastal Dependent Uses and Development Beneficial to Coastal Resources

a. Failure to Identify Wetland Resources

On of the more significant issues, discussed in detail in section C.1 of this chapter, is the concern that the LCP can be interpreted in a manner that would afford protection of only those wetlands that have been mapped as such by the LCP Combining Designation maps. A comprehensive review of the FLANs received by Commission staff between 1988 and 1998 identified16 permits that raised wetland issues in areas that were not identified as having a Wetland Combining Designation. This may be a result of either the Combining Designation maps not being inclusive of all wetland habitats, and/or an oversight of Wetland Combing Designation Standards during the local review process.

The apparent lack of a complete delineation of all wetlands in the County's coastal zone by the LCP maps is certainly understandable given the dynamic and seasonal nature of different types of wetlands. For example, vernal pools may be clearly evident in the rainy season of wet years, but very difficult to detect in the summer or during droughts. Similarly, the size and specific location of lagoons and estuaries may change from season to season and year to year, based on numerous factors including stream flows, stream alignments, ocean waves, and groundwater levels.

The lot line adjustment and roadway development authorized by COAL 94-130 and D970195D,[59] involved nearly 5 miles of new and improved roadways on a sensitive 746 acre site west of Highway One between Cayucos and Cambria. This scenic open space stretch of coast is commonly referred to as the "Harmony Coast".

The LCP Combining Designation map identifies one wetland (a stock pond) as existing on this site. An environmental constraints map completed as part of the local review identified an additional wetland (also a stock pond) of significant size and biological value not shown by the Combining Designation map. These were the wetlands addressed during the County's review of the project. However, upon visiting the site, Commission staff observed the presence of additional wetland areas.

On one hand, the County should be credited for analyzing conformance with wetland standards for the portion of the roadway improvements that came in close proximity to a wetland that was not mapped by the LCP.[60] On the other hand, it appears that the full range of wetland areas on the site was not identified during the local review. To correct this problem, the Commission required the applicant to provide evidence of approval by the Department of Fish and Game and the U.S. Army Corps Engineers prior to the commencement of roadway construction. If additional wetlands were confirmed to be present on the site during the review by these agencies, revised roadway plans conforming to wetland setback requirements must be submitted.

While this may have been an appropriate "fix" in this instance, it is probably not the best means of implementing LCP wetland protection provisions over the long-term. Rather, it is critically important that all wetland resources be identified before development is approved, so that a comprehensive assessment of the full range of potential impacts to sensitive habitats can be considered, and an accurate assessment of LCP conformance can be completed. Therefore, in addition to pursuing an alternative to the LCP's current map based system for protecting wetlands and other environmentally sensitive habitats, new standards that facilitate a complete and accurate delineation of all wetlands during the local review process should be incorporated into the LCP. (Please see Recommendations in sections C.1. and C.2.)

b. Inaccurate Delineation of Wetland Habitat

In the case of the new hotel in Oceano permitted under Development Plan D890631D, the information accompanying the FLAN contains conflicting information. In one section, the staff report indicates that the project is consistent with the 25 foot wetland setback established by the San Luis Bay Area Plan (Standard 4 for SRA Combining Designations). This setback was measured from the edge of an existing stand of willows

[59] Appealed to the Commission as A-3-SLO-99-014 and A-3-SLO-99-32 and known as the "Morro Bay Limited" project based on the name of the applicant.
[60] Nowithstanding the fact that the County undertook this analysis, the Commission found it necessary to attach additional conditions to the project in order to achieve consistency with the applicable wetland setback provisions.

that were identified as being the limit of wetland vegetation by the biological report completed for the project.

However, another section of the staff report indicates that the site is "covered by native salt rush plant that Fish and Game considers an important species due to its indication of wetland habitat". Thus, the upland limit of the wetland used to determine the setback for this development (the edge of the willows per the biological report) was in conflict with the definition of the "Upland Limit if a Wetland" provided by the Coastal Plan Policies Document.[61] As a result of incorrectly identifying the limit of the wetland, this permit appears to have authorized a commercial use directly within a wetland, inconsistent with the provisions of ESH Policy 11 and Section 23.07.172 of the CZLUO.[62] This provides another basis for incorporating new standards into the LCP that will improve upon the accuracy of the wetland delineations that are so crucial to achieving consistency with LCP and Coastal Act wetland protection provisions.

c. Inadequate Consideration of Project Alternatives

Even where the presence and extent of wetlands are accurately delineated, there may be particular circumstances under which exceptions to wetland protection standards may need to be considered. One such circumstance is where the application of these standards would preclude a reasonable economic use of private property. Another circumstance may be where exceptions to such standards are needed to achieve a final result that is, on balance, the most protective of coastal resources. In either of these cases, it is essential that the full range of project alternatives that would best achieve consistency with wetland and other resource protection standards be considered.

Both these circumstances came to play in local permits D880295D and D880388D, which authorized two new residences to encroach a maximum of 1,500 square feet into the wetlands of Morro Bay.[63] In approving these projects, the County Board of Supervisors overruled the Planning Commission's conditional approval that restricted the

[61] This definition provides that "the upland limit of a wetland is designated as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; 2) the boundary between soil that is predominantly hydric and soil that is predominantly non-hydric; or 3) in the case of wetlands without vegetation or soil, the boundary between land that is flooded or saturated at some time each year and land that is not.

[62] This permit was appealed by two Commissioners (A-4-SLO-91-36), and subsequently approved by the Commission with conditions intended to address setback requirements. However, the permit was never exercised. Since that time, a 56-unit condominium hotel that also involved removal of salt rush vegetation was approved by both the County and the Commission (Development Plan D940151D, CDP 3-95-48) and has been constructed on the site.

[63] An appeal of these projects is currently pending with the Coastal Commission (A-3-SLO--98-061, Farbstein). After determining Substantial Issue in March 1999, the De Novo hearing was continued to provide the applicant the opportunity to address, among other things, issues regarding water supply, wastewater treatment, and endangered species. To date, this information has not been provided. It is anticipated that the De Novo hearing will be rescheduled for Commission hearing in the spring or summer of 2001.

development to an area outside of the wetland. In justifying this action, which included the granting of a variance to wetland setback requirements, the Board found that the authorized wetland encroachment was the minimum necessary to avoid the removal of pygmy oak, another type of sensitive habitat found on the property. Contrary to this conclusion, the findings approved by the Planning Commission indicated that it was possible to accommodate development within a 3,000 square foot development envelope was both outside of wetland and pygmy oak habitat. Thus, although not specifically stated in the Board's findings, it can be assumed that the permitted wetland encroachment was also intended to provide the applicant with what, in the Board's opinion, was a reasonable economic use.

A significant problem with the information and analysis that accompanied the Board of Supervisor's action was that it failed to adequately address the full range of project alternatives that would achieve maximum consistency with LCP ESHA provisions and still provide a reasonable economic use of the property (e.g., the alternative approved by the Planning Commission). Recommendations on how this problem can be solved are provided in the section of this chapter regarding the Avoidance of ESHA.

D90210P involved similar circumstances, in that it authorized a use that is not allowed in wetlands in order to accommodate a principally permitted use and avoid impacts to other habitat areas on the site. Specifically, it the involved the construction of a new road with a culvert to cross a wetland in order to provide an access to a proposed residential estate. An alternative access route that would not require the wetland crossing and was identified as the less environmentally damaging alternative. However, in the County's final action on the project, the applicant was given the option of constructing either of these access routes. Thus, implementation of the least environmentally damaging alternative was not required.

Addressing Different Types of Wetlands

An interesting issue raised by recent appeals is the consideration of stock ponds created to provide a water source for cattle through the installation of dams or the construction of berms as wetlands. In many instances, these ponds have become valuable biological habitats, supporting habitat for rare and endangered species such as the red-legged frog and the western pond turtle, as well as for numerous species of birds and amphibians. Based on these significant habitat values, it is clear that such areas must be afforded the greatest degree of habitat protection available under the Coastal Act and LCP.

There may be other cases, however, where a man made stock ponds, or other human induced wet lands, may be so small in size, disconnected from other natural habitats, and/or heavily used for a particular purpose (e.g., watering cattle, detaining sediments in runoff), that they offer little to no habitat value. Applying the same stringent standards to these areas as those applied to biologically significant wetlands may not only be of questionable resource benefit, but may diminish the range of alternatives that should be considered when siting new development on highly constrained agricultural properties. For example, where necessary to avoid development on a highly visible or otherwise

environmentally significant area of coast, exceptions to a 100-foot setback from a stock pond of negligible biological value should be considered.

To respond to these various circumstances, it may be appropriate to incorporate provisions into the LCP that will allow for greater consideration of the biological significance of man made wetlands, and other competing resource protection interests, in determining appropriate setbacks from such areas.

Use of Variances

While one might be inclined to apply the variance provisions of the LCP (CZLUO Section 23.01.045) to waive wetland setback requirements and resolve the hypothetical situation described above, there are significant concerns regarding the overall use of variances. Namely, the use of variances can result in unnecessary, resource damaging exceptions to important LCP resource protection provisions.

One example of where inappropriate exceptions to wetland standards may have been granted by the County is the variances approved for the development of two single-family residences within the wetlands of Morro Bay (D960345V and D960246V).[64] As approved by the Board of Supervisors on appeal by the applicant, these variances authorized the development to encroach into 1,500 square feet of wetland habitat, even though the Planning Commission had identified and approved an alternative that would have avoided such impacts. This decision, and other problematic variances identified throughout this report, indicate the need to consider changes to the variance provisions of the LCP that would prohibit the approval of such exceptions where adverse impacts to wetlands, sensitive habitats, or other significant coastal resources would result.

Flood Protection and Erosion Control

The limitation on uses allowed in wetlands established by LCP Policy 11 for Environmentally sensitive Habitats is generally consistent with the provisions of Coastal Act Section 30233. The only significant difference is that the LCP allows the diking, filing, and dredging of wetlands to maintain flood control facilities, an activity that is not permitted by Section 30233(a) of the Coastal Act. Removal of this provision should be evaluated in order to achieve Coastal Act consistency. It is noted that a review of the permits approved by the County and noticed to the Commission for projects within the wetland Combining Designation between 1988 and 1998 did not identify any situation where the diking, dredging, or filling of wetlands was necessary for flood control.

[64] These variances, and associated development permits are currently pending on appeal to the Coastal Commission (Farbstein, A-3-SLO-98-061). After determining Substantial Issue in March 199, the De Novo hearing was continued to provide the applicant the opportunity to address, among other things, issues regarding water supply, wastewater treatment, and endangered species. It is anticipated that the De Novo hearing will be rescheduled for Commission hearing in the spring or summer of 2001.

What has been asserted as being necessary for flood control and has direct impacts on wetland resources is the breaching of sandbars at the mouth of coastal lagoons and estuaries. In the mid to late summer, when beaches are at their widest and stream flows are at their lowest, a sand bar can form that prevents coastal streams from draining to the ocean and forms a coastal lagoon. These lagoons can provide important habitat values, such as for juvenile steelhead trout in Santa Rosa Creek, as it provides a place for this fish to feed, grow, and adapt to salt water before entering the ocean when the rains come. Yet, where development has encroached within close proximity to the lagoon and flood plain, these elevated water levels can raise flooding concerns. Such concerns have been raised regarding Oso Flaco Lake in the San Luis Bay planning area, and at the Santa Rosa Creek Lagoon in the North Coast Planning Area.

In most instances, the grading necessary to breach coastal lagoons will involve development within the Coastal Commission's original jurisdiction, and therefore require a Coastal development Permit from the Coastal Commission. However, there is a high likelihood that such activities will also take place within areas of the County's jurisdiction, and would need to comply with the specific requirements of the LCP. It is questionable whether such activities could be considered an allowable use under the provisions of Section 23.07.172 regarding development in or adjacent to wetlands, and Section 23.05.034c regulating grading adjacent to sensitive habitats. Moreover, the LCP clearly lacks the protocols necessary to ensure the protection of wetland resources if and when lagoon breaching becomes a necessity. Revisions to the LCP that would clarify the limited circumstances under which lagoon breaching is allowed, accompanied by the incorporation of appropriate standards to ensure that such activities are carried out in a manner that is the most protective of wetland resources, should therefore be considered.

Monitoring and Restoration

In accordance with the Coastal Act, habitat restoration is one of the limited uses allowed by the LCP to involve the diking, filling, or dredging of wetlands. However, the LCP does not specifically allow restoration activities, or associated environmental monitoring, in or adjacent to wetlands if it does not involve diking, filling, or dredging. A literal reading of CZLUO Sections 23.07.172 and 25.03.034 indicates that restoration activities that constitute development (e.g., grading to removal fill and restore natural contours and tidal influence) are prohibited in wetland and wetland setback areas. Similarly, the installation of monitoring wells that provide important data regarding groundwater levels needed to sustain wetland habitats are arguably prohibited within wetland setbacks under CZLUO Section 23.07.172d.

That is not to say that the County has not allowed such restoration activities. In fact, a review of the permits approved by the County and reported to the Commission between 1988 and 1998 indicates that the County has been appropriately flexible in their interpretation of LCP provisions in order to allow for projects that would benefit wetland resources. Nevertheless, correcting the LCP so that there are no questions regarding the allowance of restoration activities would benefit all parties involved.

For example, Minor Use Permit D880273P[65] involved a proposal to remove a boathouse and replace it with fill in what appears to be a historic tidal area of Morro Bay. From a resource protection standpoint, the County appropriately conditioned the project in a manner that prohibited new fill, required that the natural contours of the site be restored and planted with native wetland and upland transition vegetation. An erosion control plan was also required to protect water quality. Although it did not occur in this case, a strict reading of LCP provisions prohibiting grading adjacent to sensitive habitats, and limiting uses within wetland setbacks, could preclude restoration activities such as these. In another situation, the County approved the installation of two salt water monitoring wells in Cayucos, within the 50 foot setback area for the Old Creek lagoon established by the Estero Area Plan (Minor Use Permit D940037P). The purpose of these wells were to ensure that adequate amounts of water are released from Whale Rock reservoir to maintain groundwater and surface water levels and prevent saltwater intrusion. To accomplish these important resource protection objectives, the wells were dependent upon a location adjacent to the wetland habitat at the confluence of Old Creek and the Pacific Ocean. According to the County staff report, installation of the monitoring wells would not disrupt ESHA, and the project was conditioned to minimize ground disturbance and avoid the removal of trees. This represents another example of a project that, as conditioned by the County, could be considered an appropriate use under the Coastal Act, but is technically inconsistent with the limited uses allowed in wetland setback areas by CZLUO Section 23.07.172d. Therefore, to facilitate monitoring and restoration of wetland resources, and ensure that such activities are carried out in a manner that will not harm wetland resources, changes to the LCP, particularly to Sections 23.07.172 and 23.05.034 of the CZLUO, should be considered.

Preliminary Policy Alternatives

Preliminary Recommendation 4.30: Incorporate Standards for Wetland Delineations

In addition to pursuing an alternative to the LCP's current map based system for protecting wetlands and other environmentally sensitive habitats (see section C1 of this Chapter), new standards that facilitate a complete and accurate delineation of all wetlands during the local review process should be incorporated into the LCP. A potential location for these standards would be within the updated biological report requirements (see Preliminary Recommendation 1c).

Preliminary Recommendation 4.31: Evaluate Biological Significance of Manmade Wetlands

Where necessary to address competing resource protection interests, consider the biological significance of man made wetlands. Allow adjustments to standard wetland setbacks from biologically insignificant manmade wetlands where the lesser setback will

[65] This project was within the Coastal Commission's original jurisdiction, and therefore also required a coastal development permit from the Commission.

not disrupt sensitive habitats and is needed to achieve a more important resource protection objective.

Preliminary Recommendation 4.32: Prohibit Variances to Wetland and Other ESHA Protection Standards

Consider changes to the variance provisions that would prohibit the approval of exceptions to wetlands and other ESHA setback and protection standards where those impacts could otherwise be avoided.

Preliminary Recommendation 4.33: Develop Standards for the Breaching of Coastal Lagoons

Require a CDP for lagoon breaching activities, and limit such development to situations where it represents the least environmentally damaging feasible alternative for relieving a flood hazard, public health hazard, or water pollution problem. Incorporate standards to ensure that where allowed, lagoon breaching is carried out in a manner that is the most protective of wetland resources and other environmental resources particular to each site. Such standards should include:

- Coordination with all applicable regulatory agencies, including the California Coastal Commission, California Department of Fish and Game, the US Army Corps of Engineers, the Monterey Bay National Marine Sanctuary, and the Regional Water Quality Control Board.

- Development of a breaching plan that addresses the need for breaching and available alternatives; impacts on endangered species and habitats; public health and safety; and public access and recreation.

- Requiring the breaching activity to be conducted in a controlled manner that reduces lagoon water levels the minimum necessary to abate the hazard.

- Breaching plans and permits should also include short term and long term monitoring provisions that evaluate the health of the lagoon and the impacts of breaching.

Preliminary Recommendation 4.34: Provide Standards for Wetland Monitoring and Restoration Activities

Incorporate specific requirements (e.g., within Sections 23.07.172 and 23.05.034 of the CZLUO) for the monitoring and restoration of wetland resources to enhance effectiveness and ensure that such activities are carried out in a manner that will not harm wetland resources.

Preliminary Recommendation 4.35: Review Mosquito Abatement Activities

Investigate whether mosquito abatement practices are being reviewed and permitted in conformance with ESHA Policy 12 and San Luis Bay SRA Program 8.

Preliminary Recommendation 4.36: Coordinate the Management and Protection of Open Space Easements Obtained to Protect Wetlands and other ESHA

Evaluate ways to better obtain and protect open space easements over sensitive portions of bayfront property per Morro Bay SRA Program 23. This could include partnering with the Morro Bay National Estuary Program, and other qualified agencies and organizations. Similar efforts should be made to ensure that other open space easements obtained to protect ESHA are being effectively managed.

C.5. TERRESTRIAL HABITATS

Overview: Of all the Combining Designations used to delineate the Environmentally Sensitive Habitat Areas of the San Luis Obispo County coastal zone, the Terrestrial Habitat (TH) designation is the most diverse and wide spread. From the Monterey pine forests of the North Coast to the dune habitats of Estero and South County, these land-based habitats represent some of the most important, and most endangered, stands of the central coast's dwindling native environs. A significant amount of the San Luis Obispo County coastal zone is currently mapped by the LCP under the TH designation. As detailed in the section of this chapter regarding the identification of ESHA, a much greater are of terrestrial habitat that meets the Coastal Act definition of ESHA, but is not currently mapped by the LCP, exists throughout the County's coastal zone.

A. Monterey Pine Forest: As described by the Combining Designation Chapter of the North Coast Area Plan:

> *Native Monterey pines occur in only a few areas along the California coast from north of Santa Cruz to Cambria and on one of the Channel Islands off the Santa Barbara County coast. While widely grown in the Southern Hemisphere as a commercial timber, the Monterey Pine occurs in only three areas of its native California. The southernmost stand in California is the 2,500 acres surrounding Cambria with another isolated 500 acres at Pico Creek. These stands are extremely important as a "gene pool" due to genetic variations found there. Relatively undisturbed stands occur on the Cambria fringe area and in isolated pockets to the north. Monterey pine forests cover most of the Cambria urban area. The larger remaining stands in undeveloped area should be retained intact as much as possible by use of cluster development in open areas of sparse tree cover and preservation of finer specimen stands through open space easements.*

While the above description provides a good overview of the status and management principals available for this habitat type at the time of LCP certification, much new

information has been gained. First, the advent of the pitch canker epidemic has placed new and greater threats on the survival of the remaining pine forests. Scientific knowledge of the effects of this disease, and the ways in which it can be controlled, is constantly evolving. New and adaptable management tools, planning initiatives, and development regulations are needed to respond to this problem.

Second, scientists and resource managers have gained a much greater understanding of the forest as an ecosystem, recognizing that the forest habitat is defined not by trees alone. A diverse assemblage of plants, lichens, insects, and other living things that exist various layers, from soil to forest canopy, all play an important role in the health and biological productivity of the Monterey pine habitat. Protecting this habitat therefore demands a more comprehensive approach that extends beyond the conservation of individual trees.

Third, the significant role that genetics play in a species ability to adapt to threats such as the pitch canker epidemic has placed a greater emphasis on preserving a diverse and healthy genetic stock. As a result, it is critical to protect not only the mature trees that display a resistance to the disease, but their seeds and seedlings as well. Where the protection of the "larger remaining" and "finer specimen stands" of trees may have been the focus of original LCP efforts to protect this habitat, a new approach that places equal or greater emphasis on the protection of younger trees, and the open space meadows that support their growth, must be considered.

Finally, it is clear that scientific knowledge regarding pitch canker and forest health continues to change and grow. Up until very recently, it was thought that once a tree had been infected by pitch canker, it had a very limited remaining lifespan. However, new scientific opinions indicate that some trees may recover from the disease, and perhaps provide the genetic material that will be essential for Monterey Pines to adapt to and survive this epidemic. The implications of this are twofold. First, planning policy and development regulation must be able to incorporate new scientific information as it develops. Second, a more considered look at whether a tree should be allowed to be removed just because it is infected by pitch canker, or may show signs of such an infection, should be undertaken.

LCP Provisions:

The North Coast Area Plan (NCAP) provides the most specific standards and programs aimed at protecting pine forest habitat, supplementing the general TH provisions discussed above.

North Coast Area Plan Programs: SRA Program 4 states that the County will work with the Coastal Conservancy to complete a study for the preservation of the most heavily forested and steep slope areas of Lodge Hill. In addition to designating wildlife corridors, the program is to evaluate the feasibility of implementing lot consolidation and Transfer of Development Rights programs. The program is also to produce a manual that addresses particular issues relevant to the pine forest such as erosion control, landscaping,

and other important development regulations. This manual, along with a more detailed erosion control program for Lodge Hill, are called for being prepared as part of "Phase IV of Local Coastal Plan Development".

Another Phase IV action is the preparation of a Specific Plan for Lodge Hill (SRA Program 5). Applying the results of Program 4, the Specific Plan is to evaluate opportunities to cluster development in particular areas (blocks) with steep slopes, heavy tree cover, and low levels of development.

Lot consolidation, as a means to combine small lots that do not meet current standards and reduce the overall amount and intensity of development within the pine forest, is an additional program established by the NCAP. Pursuant the SRA Program 6, the County is to review its current procedures and mechanisms for lot consolidations, and if necessary, suggest legislative changes that would facilitate this objective.

Perhaps the most commonly implemented program for tree protection is the Transfer of Development Credit (TDC) Program designed to accomplish the following objectives: a reduction in the build-out in the Cambria area, especially in Lodge Hill, to be within the public service capacity of the area;[66] and, transferring development out of the most environmentally sensitive areas. The details of this program can be found on pages 52 – 54 of the NCAP. It is implemented under Section 23.04.440 of the CZLUO.

NCAP Pine Forest Standards for Rural Areas: SRA Standard 4 requires the clustering of new subdivisions and large scale developments within forested areas. It also calls for new development to be restricted to slopes less than 20%. Where development requires removal of Monterey Pines greater than six inches in diameter, SRA Standard 5 requires their replacement with native stock.

Public Facility Standard 2 regarding the Cambria Cemetery (APN 013-111-006) requires tree trimming and removal to be minimized, and preparation of a Forest Management Plan with specific criteria.

Standards for the Hearst Ranch: Recreation Standard 12 requires that the development of the "San Simeon Point"[67] and "Pine Resort"[68] projects to be located in building envelopes of the "least biological significance". These building envelopes are to be reviewed by a biologist selected by the County in consultation with the Department of Fish and Game.

Recreation Standard 19 establishes general tree protection requirements for all portions of the Hearst Ranch within the Recreation land use category.

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[66] See Development Chapter
[67] The development of San Simeon Point is further regulated by Recreation. Standards 13 and 20, and it's "principle building envelopes" are shown by Figure 1 of the North Coast Area Plan
[68] Recreation Standards 22 and 23 provide additional requirements for the development of the Pine Resort.

Standards for Rural Lands Land Use Category: For the Rural Lands adjacent to Cambria, new land divisions must be restricted to a density of one dwelling unit per 80 acres or lower, and clustered (per the specific provisions of CZLUO Section 23.23.04.036) against either the Urban Reserve Line or "semi-open areas to minimize tree removal". No structural development is allowed on slopes steeper than 20%, and any Monterey Pines removed during construction must be replaced. (Rural Lands Standard 2)

NCAP Pine Forest Standards for the Cambria Urban Area: On small residential lot tracts in Lodge Hill, setbacks are allowed to be averaged and adjusted[69] to avoid the need for tree removal. (Community Wide Standard 5)

Development of "the Ranch" requires the retirement of water and sewer permits from steep and heavily forested 25-foot wide lots in lodge hill pursuant to Community Wide Standard 9d. A Development Plan for the residentially designated area of the Ranch, detailing measures to preserve larger stands of Monterey Pines is require by Residential Single Family Standard 5.

The development of 25 foot wide lots under single ownership is subject to the lot consolidation provisions of CZLUO Section 23.04.048. As required by Residential Single Family Standards 6 and 7, construction on 25' lots, and all residential lots within Lodge Hill, must preserve the pine forest by:

- limiting tree removal to those that are in the structural line of approved development, or have been determined to be diseased by the County or approved consultant;
- replacing trees with 8 inch or greater diameter removed by development on a two to one basis. Replacement trees must be five gallon Monterey pines grown from seeds obtained from the Cambria stand "if available";
- implementing construction practices to protect Monterey Pines from disturbance (e.g., protecting tree trunks and root systems, careful use and storage of construction equipment); and,
- maintaining the undeveloped areas of each building site in native vegetation and natural cover.

As incentive to preserve trees, RSF Standard 9 allows the Planning Director to grant a 10% increase in the allowable gross structural area where an applicant can "clearly demonstrate that design and layout concessions have been made in order to save healthy trees" or achieve other resource protection objectives.

RSF Standard 13 establishes two areas of Lodge Hill as Special Project areas due to the presence of pine forest, steep slopes, and small lots. For Special Project Area #2, which

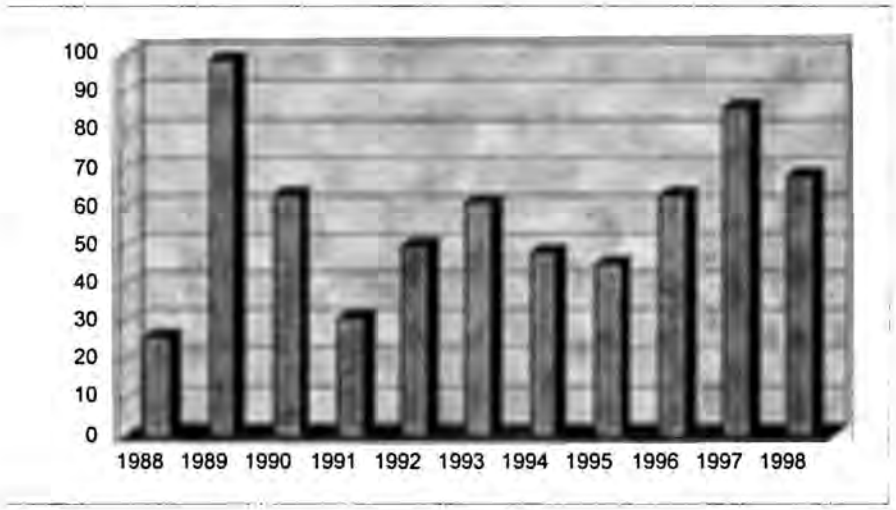
[69] Zero side yard setbacks, and two feet rear setbacks are permitted

is highly visible from Highway One, a minimum of two Monterey or Cambria pines are required to be planted and maintained. In the Residential Suburban area of West Lodge Hill, new land divisions must cluster residential units to preserve pine trees. (RS Standard 2)

LCP Implementation

Overview of Development Approved in Forested Areas: Between the period of 1988 and 1998, the Commission was sent notice of approximately 639 coastal development permits approved by the County in the Terrestrial Habitat areas in and near Cambria. (See Figure 4-3).

Figure 4-3 Annual Permits Approved in TH Designation in/near Cambria



Of these permits, the large majority (448, or 70%) was for the development of single-family residences, mostly within the Lodge Hill area. An additional 178 permits (28% of the 639 permits) were for additions to existing single-family residences.

In terms of the overall numbers of trees impacted by this development, 230 of the 639 permits (36%) reported in this area identified the number of trees removed, and an even smaller number reporting the number of trees to be replaced. 171 (74%) of the 230 permits identified the removal of Monterey Pine (as well as other trees), and 49 (21%) of the 230 permits identified the removal of Oak trees. This data is shown by Table 4-4.

Table 4-4: Tree Removal and Replacement within the TH areas in and around Cambria

Year	Monterey Pines Removed	Monterey Pines Replaced	Mitigation Ratio	Oak Trees Removed	Oak Trees Replaced	Mitigation Ratio
1988	40	88	2.2	5	10	2.0
1989	143	271	1.9	23	49	2.1
1990	22	64	2.9	?	?	?
1991	26	60	2.3	1	4	4.0
1992	60	175	2.9	?	5	?
1993	79	162	2.1	42	143	3.4
1994	42	?	?	2	?	?
1995	78	?	?	29	?	?
1996	10	20	2.0	?	?	?
1997	317	624	2.0	77	334	4.3
1998	165	332	2.0	53	224	4.2
TOTAL REPORTED BY 230 PERMITS	**982**	**1796**	**1.8**	**232**	**769**	**3.3**
AVERAGE PER PROJECT [70]	**5.74**	**10.44**	**1.8**	**4.73**	**15.08**	**3.2**
ASSUMED TOTAL OF 639 PERMITS[71]	**2715**	**4938**	**1.8**	**634**	**2021**	**3.2**

The figures presented by Table 4-4 are considered to be highly conservative based on the fact that they do not include the tree removal that occurred outside the mapped TH Combining Designations in and around Cambria. Nor do they include the tree removal associated with development that was not reported to the Commission.

The impact of development on pine forest habitat is not limited to the removal of trees. The construction of new roads and homes increase the amount of impervious surface,

[70] The average number of Monterey Pines removed per project was determined by dividing the total number reported by 171 (the number of reported permits identifying the removal of Monterey pine). For oaks, the total was divided by 49 (the number of reported permits identifying oak removal).

[71] Assumed totals were estimated by multiplying the average number of trees removed by a proportion of the 639 permits reported in the TH designation between 1988 and 1998. These proportions are equivalent to the percentages of the 230 permits reporting the removal of Monterey Pine and Oaks. (74% of the 230 permits involved the removal of Monterey Pine; thus, 473 of the 639 permits were assumed to have involved Monterey Pine removal. 21% of the 230 permits involved oak removal; thus, 134 of the 639 permits are assumed to have involved oak removal.)

which can lead to increased erosion in adjacent forest habitats. Moreover, development can lead to the fragmentation of previously connected habitat, and introduces light, noise, domestic pets, and other human influences that can reduce the health and biological productivity of surrounding habitats.

In a 1999 erosion study completed by San Luis Obispo County for a 800 acre area of Lodge Hill, it is estimated that 1200 new homes, and 18 miles of new roads have been constructed in the last 50 years. Acknowledging that the impacts of such development extend beyond its footprint, the report states that the 18 miles of new roads have impacted about 44 acres of forest. An additional 33 acres were impacted by the construction of the new residences, which were calculated as having an average size of 1200 square feet.

Consistency Analysis

Tree Removal and Replacement: The numbers presented in Table 4-4 are certainly rough estimates. Nevertheless, they provide a reasonable picture of the cumulative numbers of trees being removed and planted by development in and around Cambria. A number of important resource management and LCP implementation questions are raised by the significant amount of tree removal taking place.

Avoiding and Minimizing Tree Removal

The LCP appropriately calls for new development to avoid the removal of Monterey Pines, among other means by restricting the removal of trees to the structural footprint of the development; providing flexible setback standards to facilitate tree preservation[72]; offering square footage bonuses for designs that maximize tree preservation; and, requiring subdivisions to be clustered. Yet, a review of the information contained in the FLANs for development involving tree removal does not provide adequate evidence to assume that these tools and development standards are being stringently applied.

A typical evaluation of a single family residence in Lodge Hill consists of a table comparing the size of the proposed project with the square footage allowed by Table G of the North Coast Area Plan. There is very little, if any discussion of opportunities to avoid or minimize tree removal through alternative siting and design. Also typically missing is an analysis of whether the trees proposed for removal are limited to the footprint of the proposed structure.

Even if such an analyses were provided, the LCP's focus on preserving trees with a diameter over 6 and 8 inches overlooks the important role that young saplings and open space meadows play in the ongoing health and evolution of the forest ecosystem. It appears that an approach that protects all native trees, irrespective of size, and minimizes

[72] Such setback adjustments are currently limited to Lodge Hill, but could have useful application throughout the pine forest.

the overall disturbance to the forest habitat, including its understory and open space meadows, is needed to effectively protect this unique and sensitive habitat type.

Effectiveness of Mitigation

The two common methods for mitigating the impact of development on the pine forest is to require the developer to plant more trees than are being removed, and/or to require participation in the Transfer of Development Credit (TDC) program.

With respect to tree replacement, it appears that the County is fairly consistent in implementing the criteria established by the North Coast Area Plan (generally 2 Monterey pines must be planted for one removed in urban areas, while one pine must be planted for every one removed in rural areas). Looking at numbers of trees alone, this might seem adequate. Certainly, tree replacement has helped preserve the forested character of the area. Ecologically, however, tree replacement may be of limited value, for the following reasons:

- The location and densities of the replacement trees may not be optimum. The ability to replace trees on the same site where development occurs is often constrained by a small lot size and the extent of existing tree cover. Thus, the required replacement trees may too close to other replacement trees, or existing trees, to grow to their full potential and provide habitat values equivalent to the trees removed. In situations where this is identified as a problem during development review, the county may allow replacement trees to be planted off-site. However, the up-front planning needed to guide off-site mitigation to ensure that achieves equal or better habitat than that removed by development has not been undertaken.

- The type of habitat is different. Irrespective of the fact that the overall number of trees may be maintained, or even increased, the overall habitat type is changed by the introduction of residential development and human activity. Indeed, the urbanized forest is much different, and arguably less biologically productive, than undeveloped areas of the forest.

Implementation of the TDC program has, however, provided a form of mitigation that preserves more contiguous areas of undeveloped forest habitat. Significant areas of pine forest habitat, primarily within the Fern Canyon area of Cambria, has been acquired for open space preservation since 1988 (See Chapter 2 for detail).

Notwithstanding the relative success of this program to date, the following observations point to the need to re-evaluate and update the specific provisions of this program:

- Density bonuses may increase the number of trees removed on receiver sites. In order to provide an incentive for the transfer of development credits, receiver sites are provided with an opportunity to exceed the square footage otherwise allowed on the site. The resulting enlargement may increase the number of trees removed. Of the 230 reported permits indicating tree removal, 94 (41%) involved the transfer of development credits.

- The cumulative area of forest habitat lost as a result of density bonuses may exceed the amount being preserved. As currently implemented by the County, the TDC program allows an increase in square footage equivalent to the amount of area transferred. For example, a 500 square foot density bonus can be obtained by making a financial contribution equivalent to the cost of acquiring 500 square feet of a parcel in the Special Project Areas. This does not take into account the fact that existing LCP standards place stringent limitations on the extent of development allowed within the Special Project Areas. As a result, density bonuses may be granted for "preserving" forested areas that could not be developed under current LCP standards.

- New sending sites must be identified. The TDC Program may be reaching the limit of available sending sites in Special Project Area 1, also known as Fern Canyon. It appears that a limited number of additional parcels are available for acquisition, some of which may be owned by unwilling sellers. The identification of new sending sites is therefore needed.

Lot Consolidation: Another tool that has been successfully used to minimize the intensity of development in the forest is lot consolidation. Applying the provisions of the North Coast Area Plan and CZLUO Section 23.04.048, the County has been able to combine substandard lots under common ownership, and thereby reduce the overall amount of development that might otherwise be pursued.

Lot line adjustments, however, pose a risk to the ability to implement lot consolidation requirements. Such was the case in COAL 99-007 where the County allowed three sub-standard lots that comprised a single development site under the lot consolidation ordinance to be adjusted with one large lot. The result was three rather than two building envelopes. In addition to increasing development intensity, this adjustment had the affect of extending the development further into more undisturbed areas of pine forest, contrary to the clustering provision of the LCP discussed below. On appeal to the Coastal Commission, development was limited to two building envelopes located in the most disturbed area of the site.

Clustering of Development: The LCP requirement to cluster new land divisions and large scale developments is yet another method under which sensitive pine forest habitat is to be protected. In principle, the intent is well founded; consolidate development in a manner that will minimize its encroachment into forest habitat. But in practice, there are significant problems with both the structure and the implementation of these provisions.

In terms of structure, there is a fundamental contradiction between the directive to cluster new subdivisions and LCP ESHA Policy 4/CZLUO Section 23.07.170 prohibiting new land divisions in ESHA. Since the pine forest is appropriately classified as ESHA by the LCP, new land divisions that would create new development envelopes in pine forest habitat should be specifically prohibited.

Comprehensive Forest Management and Protection: Addressing the cumulative buildout of Cambria and the surrounding rural areas is a critical component to effective forest

protection. This not only includes a reduction of overall buildout levels, but also necessitates a systematic approach for directing buildout to the less sensitive areas, and maximizing the preservation of the most biologically productive and sensitive forest habitats.

As noted above, and as discussed in Chapter 2, the TDC program has provided a significant contribution towards achieving this objective, but appears to be approaching a point where new sending sites need to be identified. In addition, tree replacement requirements, and other previously discussed options for mitigating the cumulative impacts of buildout on forest resources, would benefit from a comprehensive plan that directs such mitigation to areas that offer the best opportunities for protecting the pine forest ecosystem.

Therefore, the LCP would greatly benefit from the incorporation of a comprehensive forest management and protection plan. Similar to Los Osos habitat conservation planning efforts, but without as many Endangered Species Act issues, the incorporation of such a program into the LCP's ability to manage the significant buildout potential of Cambria in a way that maximizes ESHA protection. Additionally, a comprehensive forest management and protection plan could resolve the complex regulatory issues associated with non-resource development in ESHAin an LCP planning context, rather than case-by-case. As the Los Osos habitat conservation effort has built upon greenbelt planning originating at the grassroots level, there may be opportunities to build upon the current forest management efforts being developed by the Cambria CSD.

Preliminary Policy Alternatives

Preliminary Recommendation 4.37: Develop a Comprehensive Forest Habitat Management and Protection Program

As part of the North Coast Update, consider the development and incorporation of a comprehensive forest habitat management and protection program that will better guide and regulate buildout so that the long-term conservation of the Cambria pine forest ecosystem can be ensured and enhanced. Elements of this program should include standards regarding the location and extent of off-site and on-site mitigation (e.g., tree replacement, contributions towards the acquisition of significant forest habitats); identification of additional TDC sending sites and appropriate receiver sites; and, provisions for the on-going management and preservation of protected forest areas.

Preliminary Recommendation 4.38: Aggressively Pursue Project Alternatives That Avoid Tree Removal

- Require development to be sited and designed in a manner that that first avoids, then minimizes, removal of Monterey Pine. Make full use of flexible setbacks, and allow such flexibility in all areas of the pine forest, not just Lodge Hill.

- Apply an updated version of Pine Forest Preservation Standard 6c for the Cambria Urban Area to all areas with pine forest habitat.

Preliminary Recommendation 4.39: Increase Tree Replacement Requirements Where Avoidance is not Possible

- Protect all native Monterey Pines, not just mature trees, by requiring replacement of all trees required to be removed, including saplings. Where feasible, replant saplings.

- Analyze the location and biological viability of locations and densities of replacement trees during development review.

- For situations where on-site replacement is not possible, develop and implement a framework for off-site replacement that maximizes long-term habitat protection and enhancement.

- Require that all replacement trees be from disease-free local Cambria stock only, and that invasive exotic species be avoided in landscaping.

Preliminary Recommendation 4.40: Incorporate Programs and Standards Necessary to Respond to the Threats Posed by Pitch Canker

- Prohibit the removal of trees that clearly display a resistance to pitch canker (e.g., a healthy tree surrounded by diseased trees).

- Establish standard protocols for handling dead and diseased wood. These should include standard conditions that require: cleaning of cutting and pruning tools with a disinfectant prior to use on each individual tree; covering of all wood material being transported offsite to avoid dispersal of contaminated bark beetles; identification of the location to which the material will transported (prohibit transfer to areas free of the disease). These conditions should also specify that in situations where wood material cannot be properly disposed of directly after cutting, it shall be cut into small logs and stored on-site under a clear plastic tarp until necessary preparations have been made for their removal. Other tree parts (i.e., branches, small limbs) should be chipped and left as a thin layer on-site.

- Designate location for green waste management and recycling facility.

- Coordinate with CDF and the US Forest Service regarding methods for preserving genetic resources (e.g., seeds and saplings). Potentially combine with green waste facility recommended above.

- Develop and require Forest Management Plan(s), backed by Forest Management District(s), to provide for long term management of the forest.

Preliminary Recommendation 4.41: Provide Greater Incentives for Participation in the Cambria TDC Program and other Updates to the Program

- Reduce maximum size of development in urban areas to provide greater incentive to participate in TDC program and reduce the impact that density bonuses may be having on the forest. Eliminate footprint and GSA bonus available for Lodge Hill.

- Formulate a more specific structure for allocating density bonuses to ensure that such bonuses provide an adequate contribution towards the protection of forest habitats otherwise threatened by development.

- Identify new "Special Project Areas" (i.e., sender sites) that contain the most biologically significant areas of pine forest habitat.

Preliminary Recommendation 4.42: Develop Additional Methods for Lot Retirement

- Recognizing that new development within the forest has both direct and cumulative impacts on forest resources, a mitigation fee could be required for all new development within forested areas and applied to the acquisition and protection of the most sensitive forest areas.

- Creating an Open Space District could raise funds for the additional acquisitions.

Preliminary Recommendation 4.43: Reduce Buildout Potential

- Prohibit subdivisions that create new building sites in or within 100 feet of pine forest habitat.

- Establish very large minimum lot sizes within rural areas comprised of pine forest habitat (e.g., 160 acres).

- Expand clustering standards and revise Cluster Division Ordinance to achieve much more consolidated development envelopes. This should include, but not be limited to: applying Monterey Pine Forest SRA Standard 4 to all development (not just subdivisions and large scale projects); and, reducing the maximum clustered parcel size of 10 acres in the Rural Lands Category.

- Consider lot consolidation requirements when reviewing lot line adjustments, and prohibit any adjustments that would result in greater development intensity within forest habitat as compared to the development that would be possible under the existing configuration.

As proposed in the North Coast Area Plan Project Description, eliminate the potential for future development of the Pine Resort from the North Coast Area Plan.

B. Coastal Dunes, Coastal Scrub and Maritime Chaparral Habitats

The sandy soils typical of many coastal areas of San Luis Obispo County also provide important habitat for a wide variety of rare plants and animals. Among these habitat types are the open dune areas that support species including the federally threatened Western snowy plover, the federally endangered California least tern, and the federally threatened Monterey spineflower; coastal scrub habitat that supports the federally endangered Morro shoulderband snail and Morro Bay Kangaroo rat; and maritime chaparral habitat, composed of rare species such as the federally threatened Morro manzanita and federally endangered Indian Knob mountain balm.

There are various classifications and plant series contained within each of these habitats. For example, coastal scrub habitat includes central dune scrub, coastal sage scrub, and Coyote bush scrub plant communities, each of which can support a variety of plant series (e.g., the California sagebrush/black sage series and the dune lupine/goldenbush series typical of Los Osos coastal scrub habitats). In general, coastal scrub habitat represents an early sucessional stage of dune habitat that can be found in both young sand dunes and disturbed ancient dunes.

Maritime chaparral is typically found in older sand dunes, and comprised of shrub species such as manzanita, ceanothus, and coast live oak. Plant series that can be found in the maritime chaparral habitats of San Luis Obispo, particularly in the Los Osos area, include the Morro Mazanita series, the Morro manazanita/wedgeleaf ceanothus series, and the Morro manzanita/coast live oak series.

Open dune areas include sandy beaches and nearby areas that are sparsely to heavily vegetated with annual and perennial plant species that are adapted to the harsh growing environment typical of such areas.

Preliminary Policy Alternatives:

Los Osos Habitats

Preliminary Recommendation 4.44: Identify all habitat areas within the urban area that represent Ecologically Significant Units and vigorously apply ESHA protection standards to such areas.

Preliminary Recommendation 4.45: For those urban areas that do not represent viable habitat due to fragmentation, small size, surrounding uses, etc., allow development to occur in exchange for participation in a comprehensive area wide off-site mitigation program to be incorporated in the LCP.

Preliminary Recommendation 4.46: To the degree feasible, coordinate the above with the Los Osos Sewer Project and an area wide HCP.

Preliminary Recommendation 4.47: Continue to pursue incorporation of a TDC program as part of the Estero Area Plan Update, with the changes recently proposed in response to comments of Commission staff and further coordination.

Oceano Habitats

Preliminary Recommendation 4.48: Continue to work with beachfront homeowners and State Parks towards the development of a stand stabilization program that will address concerns regarding blowing sand and provide habitat restoration/enhancement.

South County Habitats

Preliminary Recommendation 4.49: Refer to current staff report on Oceano Dunes OHVRA regarding vehicles in dunes.

Preliminary Recommendation 4.50: Consider prohibiting special off-road events in the Open Space area designated by the area plan intended to be maintained in its natural state and provide a buffer from the OHV area.

Preliminary Recommendation 4.51: Re-evaluate exiting and proposed land use designations in South County dune habitats (i.e., RS and Industrial designations over the undeveloped land of the Callendar-Garret Village area south and west of Hwy 1; proposed redesignation of RL land use category to Recreation after termination of oil extraction activities).

Preliminary Recommendation 4.52: Resolve lot history and any potentially illegal subdivisons in the Callendar-Garret area if threatened by development, particularly in areas known to support rare and endangered plant species. Designate and protect such areas as ESHA.

Western Snowy Plover and Least Tern Habitat

Preliminary Recommendation 4.53: Work with the US Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the Point Reyes Bird Observatory and other interested parties to identify all shoreline areas that provide habitat, or potential habitat, for the Western snowy plover and Least tern. Designate and protect these areas as ESHA. Re-evaluate land use designations in and around these habitats, and craft standards for future development to ensure effective protection. Work with land owners/managers to make certain that current and future use of these habitat areas are designed and managed in accordance with habitat continuance and enhancement.

Elephant Seal Colonies

Preliminary Recommendation 4.54: Identify beaches used by Northern Elephant Seals as ESHA.

Preliminary Recommendation 4.55: Establish standards and programs to manage human visitation and observation of such areas.

Preliminary Recommendation 4.56: Prohibit the installation of new revetments and outfalls on beaches used by Elephant Seals wherever it can be avoided.

CHAPTER 5: AGRICULTURE

A. Policy Framework

The Coastal Act requires that the maximum amount of agricultural land be maintained in agricultural production and that conflicts between urban and agricultural land uses be minimized. The long-term viability of soils must also be protected and conversions of agricultural land to other uses are strictly limited. (Sections 30241, 30241.5, 30242, and 30243.)

The San Luis Obispo County LCP currently implements these policies by requiring that existing agricultural land remain in agricultural uses, and by limiting the conversion of agricultural lands to non-agricultural uses. When non-agricultural uses are allowed to supplement continued agricultural uses, the LCP requires that remaining agricultural lands be placed in protective easements. A major goal of the LCP is to "encourage the protection of commercial agriculture land, both prime and non-prime soils, for the production of food, fiber, and other agriculture commodities".[1]

As discussed in Chapter 2, the LCP also uses urban-rural boundaries to protect agricultural lands by limiting the spread of urban development beyond the urban/rural boundary, particularly the extension of urban services. Finally, Table O of the LCP establishes the types of allowable and conditional uses on agricultural land to further protect agriculture resources. The need to better differentiate between conditionally and principally permitted uses is discussed in the Procedures chapter.

B. Background

Agriculture historically has been and continues to be an important resource in San Luis Obispo County. At the time of the LCP development, the coastal valleys of the region yielded among the highest crop value per acre in the nation.[2] The North County region of San Luis Obispo primarily supported cattle grazing outside of the urban and village areas, and contained some of the best dry-land range in the County. Grazing continues to be the predominant agricultural use in the region today. Hearst Ranch, covering 77,000 acres, an estimated 48,732 of which are in the coastal zone, is the primary agricultural land holding in the North Coast area.

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[1] LCP Framework goal. Under the Coastal Act and the San Luis Obispo County LCP, prime soils are defined as: 1) land rated as class I or II in the Soil Conservation Service classifications; 2) land rated 80-100 in the Storie Index rating; 3) land which supports livestock for food/fiber and has annual carrying capacity of at least one animal/unit (defined by USDA); or 4) land planted with fruit or nut bearing tress, vines, bushes or crops which have a nonbearing period of less than five years and which yields at least $200/acre. Non prime soils are other soils classified in the Agricultural land use category of the LUE.

[2] San Luis Obispo County Planning Department. Coastal Agriculture Study (LCP Work Task 209.1). December 1979.

In the Estero area, agriculture is also the dominant land use, comprising approximately 75% of the land not in urban reserve areas, and includes a mix of croplands and dry farm uses.[3,4,5] Agriculture is limited within the urban edge areas of Cayucos, and there is no significant agriculture within the boundaries of Los Osos. However, the urban area of Los Osos is immediately adjacent to productive agricultural areas.

Agriculture is also the primary land use in over two thirds of the South County planning area.[6] The Oso Flaco Valley region contains the largest concentration of Class I and Class II soils in the County, classified as prime agricultural land under the Coastal Act.[7]

Agriculture continues to be an important resource throughout the County, including in the coastal zone. Between 1978 and 1998, the value of agricultural products county wide increased by $230,661,000 (180%) (see Figure 5-1, next page).[8] When adjusted for inflation, though, this increase would not be as great. Agriculture is also an important aspect of the character of the County, providing open space, and a scenic, rural nature that is a defining quality of San Luis Obispo and, in addition, that is an important component of the region's growing tourism economy.

Farm Numbers and Employment: Although the value of agricultural products in San Luis Obispo County has increased steadily since 1978, data from the Census of Agriculture for San Luis Obispo County show a decline county-wide in the number of farms from 1987 to 1997 (1,991 farms to 1,916 farms).[9] Despite this decline in the number of farms, data from the California Department of Finance show that employment in agriculture sector has grown from 2,400 people in 1988 to 4,200 people in 1999, indicating again the continuing importance of agriculture in the County.

Trends in Crops and Land Use Issues: Over the past several decades, the overall value of vegetable, fruit and nut, and seed and nursery crops in San Luis Obispo County has increased, while animal husbandry and field crop values declined (see Figure 5-1, next page). Numerous factors affect the economics of crop production in any given year. For example, the El Niño weather patterns in 1998 adversely affected the production of many fruit crops and wine grapes.[11] Field crops were less affected by El Niño, but were affected by lower prices for most

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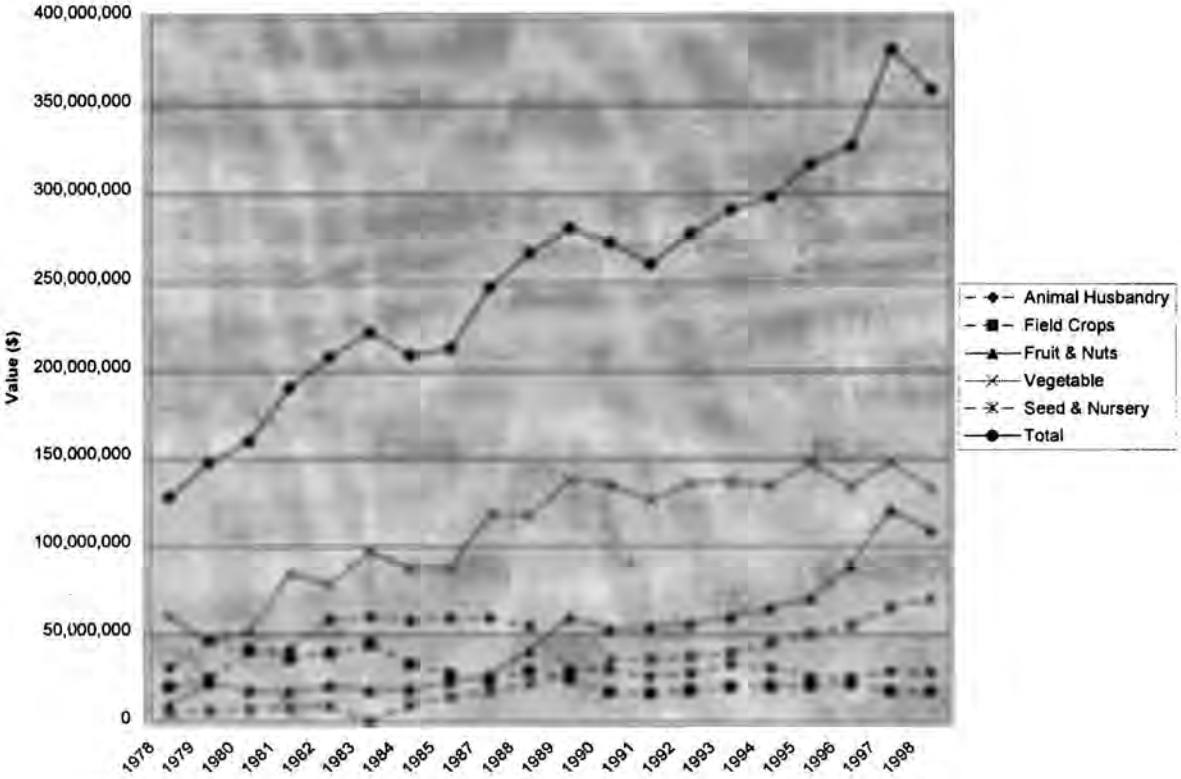
[3] San Luis Obispo LCP Estero Area Plan.
[4] San Luis Obispo County Planning Department. Coastal Agriculture Study (LCP Work Task 209.1). December 1979.
[5] Crawford, Multari, Clark, and Mohr. Draft Environmental Impact Report for the Estero Area Plan Update. December, 1999. pg. 3-1.
[6] San Luis Obispo LCP South County Area Plan.
[7] San Luis Obispo County Planning Department. Coastal Agriculture Study (LCP Work Task 209.1). December 1979.
[8] Annual reports from San Luis Obispo County Department of Agriculture (1985, 1988, 1990, 1992, 1994, 1996, 1998).
[9] Agriculture Census data, 1987 and 1997.
[10] Department of Finance, California Statistical Abstract, 1999. Labor Force and Employment, Table C-8; California Department of Finance, web page, February 2000.
[11] San Luis Obispo Council of Government; Regional Profile, 1999

of these products. Competition and pests also affected production of various crops. Foreign imports were a significant factor in the decreases in the animal industry.[12]

Figure 5-1: Value of Agriculture Products, San Luis Obispo County



Source: County agriculture reports.

A general trend noted in the County appears to be towards more water-intensive crops. Nursery products have expanded since 1988, as have avocados, lemons, and oranges.[13] The growth in citrus crops is particularly evident in the coastal zone due to the climate needs for these crops. Since all these products are water-intensive, their growth raises concerns over increased water use, particularly in the Nipomo area. The expansion of greenhouses has also led to conflicts with residential uses, as both land uses vie for limited land.[14]

Perhaps the biggest change in agriculture in the County has been the growth in vineyards. This growth has occurred on land that was historically used for dry land farming, which produced crops with a substantially lower value than could be obtained from grapes. While this trend has not yet been extensive in the coastal zone, there is potential for the conversion of existing agricultural lands, particularly existing grazing lands, to more profitable vineyards. As with the expansion of other crops noted above, the expansion of vineyards raises significant concerns

[12] Ibid.
[13] Robert Hopkins, San Luis Obispo County Agriculture Commissioner. Pers. comm. 5/5/00.
[14] Ibid.

about water availability and use, including protection of coastal groundwater basins, as well as pesticide use and landform alteration.

Acres of Agriculture Land: There are several estimates of changes in agriculturally used lands for San Luis Obispo County. Although numbers vary considerably due to different definitions used for "agricultural lands", datasets generally show a decline in the either the total amount of land used for agriculture or total agricultural productivity. For example, estimates based on the County's annual agricultural reports indicate a decline of approximately 17% (252,188 acres) County-wide between 1984-1998.[15] The Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) maps lands based on their suitability for agricultural use.[16] Lands are identified in a variety of categories, each of which has specific criteria. Lands can be reclassified from one category to another, and still remain within "agricultural" lands. For example, land classified as Farmland of Local Importance in one year may be classified as Prime farmland in a subsequent year if the land had since been irrigated.

Based on this mapping, the total extent of agricultural lands declined county-wide by approximately 7,940 acres (0.77%)between 1988 and 1996.[17] Grazing lands, which are a significant land use in the coastal zone, declined by approximately 1% (4458 acres). During the same time period, FMMP maps show a countywide increase in developed

Classification of agricultural land

The Coastal Act and the San Luis Obispo certified LCP distinguish between prime and non-prime agricultural lands. While both are protected, the development constraints and requirements differ dependent on whether land is "prime" or "non-prime". However, the Coastal Act definition of prime land differs from the definition used by other agencies, including the Department of Conservation. As a result, direct comparison of change in acres of prime or non-prime agricultural land is difficult. Following are the definitions used by various agencies to classify agricultural lands.

Coastal Act and LCP:
Prime land is defined by any of the following five criteria:
1) Land rated as class I or class II in the Soil Conservation Service land use capability classifications.
2) Land rated as 80 through 100 in the Storie Index Rating.
3) Land which support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the US Dept. of Agriculture.
4) Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally yield at least $200 per acre annually from the production of unprocessed agricultural plant production.
5) Land which yielded at least $200 per acre annually from the production of unprocessed agricultural plant products for three of the previous five years.

NRCS: While the Natural Conservation and Resources Conservation Service (NRCS, formerly the Soil Conservation Service) classifies soils through the land capability classifications referenced in the Coastal Act definition of prime agricultural lands, the NRCS does not generally use that classification to determine prime soils. The land capability classification system – an indication of the restrictions for use in both agriculture and other uses – is more general than NRCS' definition of prime or non-prime soils. Although land classified as Class I or Class II can be prime, it not always prime soil.

To define prime and non-prime agricultural soils, NRCS uses a combination of chemical and physical properties of the soil. The **Department of Conservation's farmland mapping program** uses these definitions to classify agricultural lands. Prime soils are defined as land with the soil quality, growing season, and moisture supply needed to produce sustained high yields. It **must** have been used for production of irrigated crops at some time during the preceding two years.

[15] Annual reports from San Luis Obispo County Department of Agriculture (1985, 1988, 1990, 1992, 1994, 1996, 1998). This estimate does not measure acres of agriculture land per se, but is an estimate of land with commercial viability. It includes rangeland, cultivated land, and some, but not all fallow land. It also includes land being used for agriculture, but that is not *zoned* agriculture. Acres are calculated by harvest; where areas have multiple harvests each year, the acres are counted for each harvest. (Robert Hopkins, pers. com. 5/5/00).
[16] Maps are based on USDA mapped lands. For SLO County, the majority of the County has been mapped, with the exception of the National Forests and the Carrizo Plain.
[17] Total agricultural lands are defined here as the FMMP definitions of: Prime farmland, farmland of Statewide Importance; unique farmland; farmland of local importance, farmland of local potential, and grazing lands.

and urban areas of approximately 11% (3,360 acres). The maps also indicate a 3% increase in the extent of prime agricultural lands: this increase likely resulted from the increase in irrigated lands in the County. Under the FMMP definitions, when land is irrigated it is classified as prime agricultural land.

To discourage the loss of agricultural lands, the County encourages the use of the Williamson Act. Under the Williamson Act, specific parcels of land are temporarily restricted to allow only on-going agricultural use. Property tax assessments for the property are based on continued farming or open space values, rather than the potential for development, and are significantly lowered. Williamson Act contracts are voluntary agreements between a landowner and the local government. Initially, the agreement in San Luis Obispo County is for a minimum of 20 years, and is automatically renewed each year unless either the landowner or the local government initiates non-renewal of the contract. For parcels within one mile of an urban boundary, the minimum contract is for 10 years.[18] In San Luis Obispo County, the acres of agricultural land protected under the Williamson Act have increased countywide by approximately 10% (72,449 acres) between 1980 and 1998.[19] Since 1988, the County has had significant success in bringing more land under agricultural preserves. Through 25 separate contracts, 7077 additional acres of agricultural land have been protected.

Long-term Viability of Agricultural Lands: Maintaining the long-term viability of agricultural lands is extremely difficult, in part because of numerous economic and climate-related factors that are beyond the immediate realm of coastal and land use planning policies. For example, land costs, production costs, operating costs, equipment costs, labor costs, property and inheritance taxes, and utility assessments all affect the viability of agriculture practices.[20] The specifics of a site, including the hydrology, historic land uses, and runoff or sedimentation from upland uses can also affect the long-term operation of a farm.[21] International market forces affect the economics of agriculture as well. The flexibility to change practices to respond to changing economic situations is one element that is critical in maintaining agricultural uses. Because of the complexity of the agricultural economy, local governments must take advantage of multiple mechanisms, including land use regulations, to maintain agricultural lands.

Land use trends, though, play a considerable role in pressures to convert agricultural lands. During preparation of the LCP several major factors were identified to ensure the long-term viability of agriculture including: (1) ensuring adequate water supplies; (2) limiting continued urbanization, which increases property values and pressures to convert land; (3) maintaining minimum parcel sizes to ensure the economic viability of agricultural uses; and (4) maintaining appropriate uses in agricultural areas.

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[18] Frank Heinsohn, San Luis Obispo County Energy and Natural Resources Advance Planning. Pers. comm. February, 22, 2000.
[19] County chart of Williamson contracts, 1980-2000
[20] San Luis Obispo County Planning Department. Coastal Agriculture Study (LCP Work Task 209.1). December 1979; San Luis Obispo LCP, 1988.
[21] Julie Clark, American Farmland Trust. Pers. comm. 6/2/00.

More recent research by the American Farmland Trust in California reveals several other land use factors that significantly affect the rate at which agricultural lands are lost:[22]

- The location of infrastructure development (roads, sewer services, etc) can greatly affect the potential future development of agricultural lands by opening areas of lower-priced agricultural lands to development pressure. The reactive development of infrastructure to address current growth can also affect future growth patterns. Publicly financed roads make less-expensive agricultural and rural lands accessible to development and reduce the costs associated with living in outlying areas.
- Due to Proposition 13, local governments often approve larger, more expensive homes on larger lots to generate more revenue than smaller, compact development. Differences between policies of local jurisdictions can encourage developers to develop in areas and types of development which are less efficient in terms of land use, providing a disincentive for any jurisdiction to adopt more stringent development standards.
- While the cost of providing utilities to outlying, rural areas is more than providing services for compact development, the price charged is the same regardless of where the development is being served.
- Addressing non-point source pollution for an individual developer is easier for less dense development. Overall, there is less impervious surface, resulting in less runoff. However, the cumulative effect of runoff will be greater as more land is developed to accommodate the same number of residences.
- CEQA may discourage efficient land use patterns by not examining the role of development density in the consumption of land and its environmental impacts.
- The effect of land use standards also affects the extent of land converted to developed uses: traditionally wide street and sidewalks can consume significant acres of land. Since standards are established by each jurisdiction, there may be a bias against smaller lots.
- Development fees are not graduated on the basis of density and new subdivisions, and do not cover the costs of inefficient land uses; penalizes compact development.

As discussed in Chapter 2, the Coastal Act and LCP require the concentration of development in urban areas, and prohibit the extension of urban services to rural areas, precisely to address some of these classic land use development patterns and pressures.

Overall, the economics of agriculture are likely to continue to make farming difficult, in part due to the speculative value of land. When land costs are based not on the agricultural use of lands, but on other potential coastal land uses, land costs become significantly inflated relative to the agricultural value of the land. This is particularly true for such trends as the development of large estate homes in rural areas, which may quickly drive up the value of agricultural lands. This challenge makes it doubly important to take full advantage of land use policies and regulations to counteract the economic pressures to convert agricultural land to other uses.

General Regulatory Trends: Since certification of the LCP in 1988, the Commission has received notice of an estimated 212 permits for development on agriculturally zoned lands.

[22] Steven Moss. *Smart Growth Versus Sprawl in California.* American Farmland Trust. 1999.

Based on the Commission's review of these local notices, at least 38 permits were issued for what strictly might be termed "agricultural" development, generally defined as barns and other agricultural accessory structures, such as mobile homes for farm worker housing. An additional seven permits were granted for agriculturally-related commercial development, including nurseries, greenhouses, wineries, and roadside stands. The remaining permits were granted for various projects such as public works projects, residential development, subdivisions and lot-line adjustments, water wells, several recreation or visitor-serving projects, and other non-agricultural commercial development. As discussed later, this "non-agricultural development" has the potential to incrementally erode the LCP goal of preserving agricultural lands.

Between 1988-1999, the Commission acted on seven appeals of local government actions raising agricultural issues. In three of these cases, the Commission found no substantial issue with the County's implementation of its LCP. In the remaining four appeals, the Commission found that the County was not implementing its LCP in a manner which protected agricultural resources. These appeals dealt with non-agricultural uses on agricultural land and the adequate preservation of agricultural lands. In A-3-SLO-98-025 (Scoggins), the Commission found that the County approved non-agricultural uses on agricultural lands without meeting the tests required under the LCP. Appeals 3-SLO-99-014 and 3-SLO-99-32 (Morro Bay Ltd.) raised the issue of the extent of agricultural land converted to residential uses: the Commission found that the County's approved lot configuration converted more agricultural land than necessary to accommodate allowable residential development. In its action, the Commission reduced the area for residential development and required an easement over the remaining land to protect agricultural uses. Similarly, in A-3-SLO-95-69 9, the Commission approved a desalination plant on agricultural land (public facilities are conditionally allowed on agriculturally zoned land under the LCP), but required an easement over the remainder of the land to protect agricultural use in the future.

In addition, the Commission reviewed a number of amendments to the LCP dealing with agricultural issues. These amendments dealt with proposed rezoning of agricultural lands, appropriate uses allowed on agricultural lands, and setbacks for greenhouses.

C. Preliminary LCP Implementation Issues

C.1. Direct conversion of Agricultural Lands:

The Coastal Act and the LCP require that agricultural lands be maintained, and limit their conversion to other uses to situations where the long-term agricultural viability of such lands is in question. While the actual conversion of lands designated for agriculture to other land uses in the San Luis Obispo coastal zone has been limited, the pressure to convert agricultural lands will continue with increasing growth and development in the coastal zone. In addition, where agricultural lands have been proposed for redesignation to other uses, the continued viability of such lands has not been fully analyzed. Further, as discussed in sections C.2 and C.3, other incremental land use changes in agricultural areas threaten the continuing viability of the maximum amount of agricultural land in the coastal zone. The LCP should be strengthened to prevent future losses of agricultural lands by requiring more comprehensive viability studies prior to approval of land conversions.

Overview: The conversion of agricultural land – particularly due to urban encroachment – was a significant issue during development of the San Luis Obispo LCP. Loss of agricultural land was evident in Oceano, Los Osos, Chorro Valley, and near the Arroyo Grande City limits. During the ten years between 1968-1978, the County lost approximately 200 acres of vegetable cropland in Oceano and the Los Osos area.[23]

As discussed in the previous section, data from the Farmland Mapping and Monitoring Program (FMMP) show a small decline countywide in the overall extent of agricultural land, and a slight increase in the amount of prime farmland sites in San Luis Obispo County between 1988 and 1996. Data for the coastal zone is less conclusive. [24]

Williamson Act: As mentioned, use of the Williamson Act has helped protect agricultural lands from these pressures. The County has been very successful in adding new lands to the agricultural preserve system – approximately 7,077 acres since certification of the LCP. Currently, approximately 51,855 acres of agricultural land in the coastal zone (approximately 42%) are protected through Williamson Act contracts (see Map 5-A).[25] Currently, no contract covering these parcels is set to expire, although either the County or the landowner can request non-renewal of a contract in the future. Table 5-1, below, summarizes the extent of agricultural lands under Williamson Act contracts for each planning area in the LCP.

Table 5-1: Coastal Zone Lands Under Williamson Act Contracts, 1999*

Planning Area	Acres Ag land	Acres Under Williamson Act	% in Williamson Act
North Coast	82258	26140	32%
Estero	30628	18762	61%
San Luis Bay	3897	1350	35%
South County	6220	5306	90%

**Acreage Estimates are Approximate*

As discussed previously, a significant amount of the County's land in the coastal zone is zoned as agriculture, including land adjacent to the urban services lines of Cambria and Los Osos. Because of the locations of this land directly adjacent to urban uses, conflicts between agriculture and urban uses increase, and pressure to convert agricultural lands and/or expand urban services lines increase. Although not a guaranteed, permanent solution, use of Williamson Act contracts can greatly improve protection of these parcels.

[23] San Luis Obispo County Planning Department. Coastal Agriculture Study (LCP Work Task 209.1). December 1979.

[24] Within the coastal zone boundary, the FMMP mapping data indicates an overall loss of agricultural lands of approximately 0.68% (loss of 812 acres). This includes a gain of 140 acres in non-grazing agricultural lands and a loss of 952 acres of grazing land. Based on the FMMP mapping and definition, the extent of prime agricultural land in the coastal zone increased by 20% between 1988 and 1996. As discussed above, this change in designation may be due to a change from non-irrigated to irrigated lands. However, this data cannot be deemed conclusive due to potential mapping and data coding anomalies. Overall, this FMMP calculated loss of agricultural land is not supported by other data.

[25] The coastal zone boundary bisects a number of parcels under Williamson Act contracts; these bisected parcels cover approximately 15,634 acres of the 51,855 acres.

As shown in Map 5-A, some of the agricultural parcels adjacent to urban lines are under Williamson Act contracts; however, many parcels are not. In the North Coast, much of the land inland of Cambria is under agricultural preserve contracts, although none of the Hearst Ranch is in an agricultural preserve. One concern, for example, is that no Williamson Act contracts protect agricultural lands around San Simeon Acres. Of course, as discussed in Chapter 2, such lands immediately adjacent to an urban node may be an appropriate location for concentration of future visitor-serving development, assuming such development was otherwise supportable under the resource protection policies of the LCP.

In the Estero region, most agricultural lands near the urban reserve lines are also not under contracts. Several small parcels (approximately 30-60 acres) adjacent to the Los Osos urban reserve line are not currently under contracts. Due to their location and small size, these lands may be facing significant pressure to convert to other uses.

While Williamson Act contracts are not required, it has been an important tool that the County has used to protect agricultural lands. Current programs under the LCP Area Plans encourage participation in Williamson Act contracts. If the County continues to encourage these programs, especially adjacent to urban area, it will help protect these vulnerable lands.

LCP Implementation: Agriculture Policy 1 of the San Luis Obispo County LCP is the primary policy that implements the Coastal Act objective to protect existing agricultural lands. This policy generally requires that prime agricultural land be maintained in or available for production unless severe conflicts with urban uses limit such use, conversion of the land would otherwise preserve agriculture land, or unless it is no longer feasible to keep the lands in agriculture.

As with other Coastal Act objectives, preservation of agricultural lands is best achieved through a strong partnership between local governments and the Coastal Commission. Indeed, one of the primary processes through which agricultural lands are considered for conversion to other uses is the LCP amendment process. Since certification of the LCP, a variety of agricultural conversions have been addressed through LCP amendments submitted by the County and considered by the Commission.

Prior LCP Amendments to Convert Agriculture Lands: Under the LUP, approximately 128,770 acres of land in the San Luis Obispo coastal zone are zoned as agriculture. A basic premise for protecting agricultural lands is to ensure that agriculturally-viable lands remain zoned for agriculture, thereby reducing potential conversions to other uses. Since Commission approval of the LUP in 1983, the County has submitted three amendments (Amendments 1-84, 1-90, and 1-97) proposing the redesignation of roughly 305 acres of agricultural lands to Recreation, Public Facility, Commercial Services, and Commercial Retail uses. As summarized in Table 5-2, next page, several of the proposed conversions were to correct original map errors or to reflect the crucial use of the parcel. Some of these reflected existing nonconforming uses. The proposed conversions to the more intensive commercial uses represents one indication of increasing pressures to convert agricultural lands to urban uses.

Table 5-2: Summary of Amendments Redesignating Agricultural Lands

Amendment	No. Acres	Proposed Zoning	CCC Action	Reason for Action
1-84	NA	Recreation	Approved	Reflect actual ownership
1-84	NA	Public Facility	Approved	Reflect actual ownership
1-84	NA	Recreation	Approved	Not viable for agriculture
1-90	87 acre parcel; 18 acres prime; 13 acres non-prime	Public Facility	Approved; restricted to conversion of 10 acres	Necessary for wastewater site; least damaging alternative.
1-97	37	Recreation	Approved	Correct mapping error
1-97	2	Commercial Services	Approved	Recognize non-conforming use[26]
1-97	1.5	Public Facility	Approved	Recognize non-conforming use
1-97	2.5 (part of 150 acre parcel)	Commercial Retail	Denied	Existing grazing use
1-97	70	Commercial Retail and Recreation	Denied	Inadequate findings
1-97	1	Commercial Retail	Denied	Expands URL
1-97	104	Public Facility	Denied	Unnecessary conversion[27]
Total	305			

Sources: Findings for LCPA 1-84; 1-90; Revised Findings for LCPA 1-97 January 12-16, 1998.

While the Commission concurred with the redesignation of 50.5 of these 305 acres from Agriculture to other uses, most of this land has not actually been converted to other uses, and remains available for agriculture.

Since certification of the LCP, the County also has proposed redesignation of 1,432 acres from other uses *to* agriculture (see LCPA 3-88 and LCPA 1-97). The Commission approved these amendments in part, including the rezoning of 57 acres from Rural Land and Recreation to Agriculture through Amendment 3-88; these parcels were part of larger, existing ranches and the redesignation was necessary to allow the parcels to remain under Williamson Act contract. The remaining lands proposed for rezoning from other uses to agriculture under Amendment 1-97 (1,375 acres) have not been rezoned yet, because the Amendment was not effectively certified and implemented. The County has recently proposed to again to redesignate these lands, which are located at the boundary between San Luis Obispo and Monterey Counties (see below).

[26] The findings indicate that two acres zoned agriculture had been converted to gravel parking facility; restoring the site to agriculture would be difficult and the two acre size is below a viable parcel size.

[27] Redesignation is for construction of a desalination facility. Under conditions required by the Commission on appeal for the facility, the zoning of the site would have to be changed. However, the County denied the applicant's request to rezone the parcel. Therefore, the Commission found that redesignation of the site through this amendment was inappropriate. A separate LCP amendment could be submitted in the future.

Future LCP Amendment Conversions Proposed: Under the Estero Area Plan Update, 20 acres of land are proposed for change from Public Facilities to Agriculture, and 58 acres are proposed to be changed from Agriculture to Rural Lands or Recreation.[28] If these redesignations proceed, a net loss of 38 acres will result. The EIR states that this change is less than one-tenth of one percent, that it will not affect prime agricultural land (as defined in the EIR), and that it is therefore not a significant impact. However, if these areas are currently used for agriculture and are viable for continued agriculture, the net loss may be significant under the Coastal Act and LCP policies, and would be in conflict with protecting agricultural lands. More detailed analysis of these proposals will be needed through the Estero Area Plan update process. It should be observed that the Coastal Act standard for converting agricultural lands is not whether the conversion results in a significant impact. Rather, under sections 30241 and 30242, conversions are limited to situations such as where the viability of the land in question is already severely limited by conflicts with urban uses or where continued agricultural use is no longer feasible. This is a much higher standard than the significant impact analysis that is sometimes undertaken through CEQA processes.

In its most recent North Coast Update Project Description (January 2000), the County again proposes a number of land use designation changes affecting agricultural lands. The County's proposal would rezone approximately 9 acres from Agriculture to other land uses, and approximately 1,760 acres from other designations to Agriculture. The net effect would be to increase lands zoned for agriculture by approximately 1,750 acres. Notably, other than the 1375 acres of Rural Lands at the County line, these lands proposed for rezoning are on the Hearst Ranch and are currently zoned recreational.[29] As discussed in the Chapter 2, this proposal is consistent with current viable grazing uses on the Ranch, and would help to maximize protection of agricultural lands in the County. It also is appropriate in light of current information about the lack of resources to support future intensive visitor-serving development along the North Coast. Finally, this proposal is also consistent with the Commission's 1998 action on the previous submittal of the North Coast Area Plan.

Analysis: Agricultural Policy 1 requires that agricultural lands be maintained in, or available for, agricultural production. Similar to the Coastal Act, this policy also allows conversions of prime agricultural lands only under the following circumstances:

1. *agricultural use is already severely limited by conflicts with urban uses;*

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[28] Crawford, Multari, Clark, and Mohr. Draft Environmental Impact Report for the Estero Area Plan Update. December, 1999. pg. 5.9-11.

[29] Non-agricultural development at Hearst Ranch has been an issue since the early 1960s. The Ranch, a cattle operation, includes approximately 48,732 acres in the coastal zone. The Commission and the County have debated supplemental uses on the Ranch several times through the LCP planning and subsequent amendments. The County's LCP initially proposed several commercial and visitor serving sites on the Ranch; in its review of the LCP, the Commission suggested reducing the extent of commercial development and assuring that the remaining lands were protected for agricultural use through requiring an agriculture/open space easement. The County ultimately accepted the Commission's modifications in 1984, but sought an amendment deleting the easement requirement. Ultimately, the Commission deleted the easement requirement through Amendment 2-88. In its 1998 review of the North Coast Area Plan Update, the Commission found that agricultural grazing lands were still viable on the Ranch.

2. *adequate public services are available to serve the expanded urban uses and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, contributing to the establishment of a stable urban/rural boundary;*
3. *development on converted lands will not adversely affect surrounding agricultural uses.*

For non-prime lands, Agriculture Policy 1 allows the conversion to other uses where:

1. *continued or renewed agricultural use is not feasible;*
2. *the conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services;*
3. *the conversion would not adversely affect surrounding agricultural uses.*

Keeping lands zoned for agricultural uses is the first important factor in meeting the objectives of these policies. As discussed above, the County has sought to redesignate approximately 305 acres of agricultural lands through a number of LCP amendment submittals. In reviewing the County's proposed amendments, the Commission found that the County's proposals were consistent with the Coastal Act and LCP in approximately half of the cases, but were inconsistent in the remaining cases (approximately 177 acres).

Under Amendment 1-90, the Commission approved the conversion of agricultural land for the construction of a wastewater treatment plant for Los Osos. While the County requested redesignation of an 87 acre parcel, including 18 acres of prime agricultural land and 13 acres of non-prime agricultural land, the Commission restricted the conversion of land to the minimum needed for the facility, a total of 10 acres. In approving the conversion, the Commission found that although the land *was* viable for ongoing agricultural uses, the amount of land converted was limited, alternative sites for the project were limited and would have converted more productive agricultural lands, and the project protected the long-term viability of agriculture by improving water quality and protecting the groundwater. As discussed in Chapter 2, protecting water quality in Morro Bay has been a longstanding concern, and a wastewater treatment plant for the community of Los Osos is highly needed. In this case, though, the proposed site is now unlikely to be used, and the conversion of agricultural land through that amendment will likely not occur. The current Estero Plan Update proposes changing this site back to Agricultural zoning.[30]

Under Amendment 1-97, the Commission also denied some of the proposed redesignations, finding that they did not comply with the criteria established in the LCP, or Coastal Act, for conversion of agricultural lands. In its findings for Amendment 1-97, the Commission states that for several of the County's proposals, the County did not present evidence that agricultural uses were no longer feasible on the sites, or that the proposed conversion would preserve primary agricultural lands. In addition, in one case, the County's proposal would expand the urban services line onto one acre of agricultural land. These actions do not appear to meet the criteria

[30] San Luis Obispo County Department of Planning and Building. *Estero Area Plan, Public Hearing Draft.* February 1999. pg. M-1.

established in the LCP policies. Since the County has not accepted the suggested modification to bring Amendment 1-97 into conformance with the LCP, the proposed redesignations will not occur under that amendment. Some of these changes are proposed again, though, in the current North Coast Area Plan project description.

Local Permits and Appeals of Local Permits: Although the actual redesignation of agricultural lands must be processed through an LCP amendment, sometimes agricultural lands are effectively rezoned through land use approvals that allow non-agricultural uses to occur without changing the land use designation. Because of the importance of such actions to the long-term preservation of agriculture, these are discussed in more detail in sections C.2 and C.3 below. There is one case, though, that deserves mention here.

Under FLAN 3-SLO-95-124 (D940059D), a potential of 34 acres of agricultural land may be redesignated to public facility. Under the action, the County approved a desalinization plant on agriculturally zoned land. As discussed in the Development chapter, the plant may be part of the long-term solution for supporting new development in Cambria. On appeal (A-3-SLO-95-069), the Commission approved the project with the condition that the applicant submit an LCP amendment to redesignate the parcel from agriculture to public facilities, finding that future agricultural activities were unlikely.[31]

Determining Agriculture Viability: A critical step in avoiding conversion of agricultural land is assessing the viability of continued agricultural use. Coastal Act Section 30241.5 provides guidance for the determination of viability when LCP amendments are being considered. Viability analyses should include an economic feasibility evaluation that includes such things as analysis of gross revenue for agricultural products in the vicinity of lands being considered for conversion and an analysis of operational expenses that might affect the viability of production.

As discussed, implementation of Agriculture Policy 1 requires that before converting agricultural lands to other uses, the County must determine, in part, that the conversion would preserve prime agricultural land and that development on converted lands will not adversely affect surrounding agricultural uses. For non-prime lands, Agriculture Policy 1 allows the conversion to other uses where the County determines, among other things that continued or renewed agricultural use is not feasible and the conversion would not adversely affect surrounding agricultural uses.

These determinations under Policy 1 all require some assessment of agricultural viability. However, this policy does not have language that directly reflects the guidance of Coastal Act 30241.5 for determining agricultural viability. In making these determinations in support of its LCP amendment submittals, the County has relied mainly on the Agricultural Commissioner's review of agricultural viability information submitted by project applicants. In many cases, though, this information has not been developed adequately nor framed appropriately to address Coastal Act and LCP requirements for the conversion of agricultural land. For example, a viability report may conclude that the impact on agricultural viability of the proposed conversion would not be significant. The appropriate test, though, is whether agricultural use on the parcel is no longer feasible or whether there are severe conflicts with urban uses. Under 30241.5,

[31] California Coastal Commission. Findings for A-3-SLO-95-069. Dec. 14, 1995.

economic feasibility analysis is required to adequately develop an evaluation of continued agricultural viability. This is a much different and higher threshold for approving agricultural land conversions.

The LCP's existing criteria required for content of viability reports for agricultural subdivisions under CZLUO 23.04.024 provides some guidance on the type of information needed to assess agricultural viability. This ordinance requires an applicant to submit:

- existing land uses on the site;
- present annual income derived from agricultural operations and other income-generating operations on the site;
- site characteristics affecting agricultural land use and production, including topography, soils, climate, water availability, and adjacent land uses;
- the potential of the site to support future food-producing agricultural uses and estimated annual income from such uses;
- potential effects of the proposed land division development on agricultural food production, both short-term and long-term;
- recommendations and conclusions of the development's effects on agricultural production.

Ordinance 23.04.050, concerning supplemental uses, also requires the submittal of information to assist in evaluating agricultural viability, including site layout plans, documentation about public infrastructure costs, and economic analysis, and so forth. In a review of agricultural viability reports prepared for various County permits, though, some reports had no discussion of present annual income derived from agricultural operations and other income-generating operations on the site.

The Commission's more recent experience in other jurisdictions also shows that information that more directly addresses the Coastal Act requirements for economic feasibility analysis as well as existing San Luis Obispo County LCP criteria for agricultural conversions, is needed. Without complete and thorough assessments, the determination of the effects of proposed non-agricultural uses on adjacent agricultural lands cannot be consistent with the objectives of Coastal Act policies.

Thus, one way to address this issue is to require more specific and comprehensive assessment of both agricultural viability and other factors that may be placing pressure on agricultural lands. As just mentioned, the San Luis Obispo LCP does contain standards for such assessment in the case of agricultural land divisions and for the approval of non-agricultural supplemental uses on agricultural lands; however, there does appear to be an opportunity to improve upon these.

The County is also proposing new policies to underscore the importance of maintaining viable agricultural lands. For example, through its proposed Estero Area Plan update, the County is proposing adding the following policies under the Rural Land Use section:

Provide incentives for landowners to maintain land in productive agricultural use.

> *Maintain existing Agriculture land use categories in order to protect agricultural resources; do not convert agricultural land to other land use categories.*[32]

While these added policies may define the value of maintaining agricultural lands in the Estero region, and may guide the County in future actions, the policies themselves do not have any clear mechanisms to assure implementation. Implementation of these policies would presumably rely on LCP Agriculture Policy 1. Therefore, revisions to Agricultural Policy 1 and to the CZLUO may be needed in order to ensure that a thorough viability analysis is required in order to make the required determinations.

Consistency Analysis: Policy 30241 of the Coastal Act requires that the "maximum amount of prime agricultural land shall be maintained in agricultural production." The Act allows for the conversion of prime agricultural land only in limited circumstances, including prime lands "around the periphery of urban areas" where a) the viability of agricultural lands is already severely limited by conflicts with urban uses, or b) where conversion of such lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

Section 30242 of the Act requires that "[a]ll other lands suitable for agricultural use shall not be converted to nonagricultural uses unless 1) continued or renewed agricultural use is not feasible, or 2) such conversion would preserve prime agricultural land or concentrate development ..." Finally, Section 30241.5 requires economic feasibility analysis for LCP amendments that propose conversion of agricultural land.

Although the extent of actual conversions of agricultural lands has been limited, a number of the County's previous proposals have not completely conformed with Sections 30241, 30241.5 and 30242 of the Coastal Act. For example, the County's redesignation under Amendment 1-90 would have converted more land than necessary to accommodate a public facility. In addition, as the Commission found in Amendment 1-97, the County proposed converting agricultural lands without adequate findings as to the ongoing feasibility of agricultural uses. As development pressures continue, it is likely that the pressure to convert agricultural lands to other uses will also continue. Protection of agricultural lands in the coastal zone could be improved with enhanced implementing mechanisms for Agriculture Policy 1 of the LCP concerning land conversions to other uses. Such measures should include mechanisms to assure that the analysis of agricultural viability during the County's review processes considers the full range of factors and alternatives to maximize protection of agriculture.

Preliminary Policy Alternatives: In addition to the County proposals to strengthen agricultural policies in the Area Plans, agricultural lands protection can be enhanced by underscoring the need for agricultural viability reports in support of all proposed conversions from agriculture to other uses. The County should consider amending Agriculture Policy 1 to require such reports

[32] San Luis Obispo County Department of Planning and Building. *Estero Area Plan, Public Hearing Draft.* February 1999. pg. 4-8.

for all proposals affecting agricultural lands. More specific requirements for contents of the reports also should be required.

Preliminary Recommendation 5.1: Modify Agricultural Policy 1 by adding the following language:

> *For any proposed rezoning of agricultural lands to another designation, or for any other proposed development that would commit agricultural lands to other non-agricultural uses, an agricultural viability report shall be prepared, as specified under Ordinance 23.04.024(a).*

Preliminary Recommendation 5.2: Modify Ordinance 23.04.024(a) to expand the factors that should considered as part of the required viability studies to include the following:

Incorporate an Agricultural Viability Report **definition,** for example:

> *A report that assesses the viability of parcels as agricultural or grazing units, given existing conditions and proposed development. Viability is considered in terms of many factors, including product marketability, soils, parcel size and any other factors relevant to the particular parcel. The report shall establish a baseline of information to be used to describe the role that each factor plays as a variable influencing the site and surrounding area's viability for agricultural production. In terms of scope, the feasibility analysis should analyze both the site and the larger area's current and past productivity as an agricultural unit for at least the preceding five years.*

Preliminary Recommendation 5.3: Expand and specify the contents of the Agriculture Viability Report. For example, CZLUO 23.04.024(a)(1), Existing land uses and (3) Site characteristics...including topography soils, climate water availability and adjacent land uses, could be expanded to include more specific information such as:

1. *Soils*
   a. *The identification of all soil types that are found in the area (As stated in the most recent Soil Survey published by the United States Department of Agriculture).*
   b. *Storie index and Capability Classification ratings of all identified soil types (As stated in the most recent Soil Survey published by the United States Department of Agriculture.*
   c. *The expected animal unit month (AUM) yield for each identified soil type (As stated in the most recent Soil Survey published by the United States Department of Agriculture).*
   d. *The expected net dollar return per acre for crops that are currently cultivated on each soil type.*
   e. *An identification of crop types that could be potentially grown on each identified soil type, and also the expected net dollar return for such crops.*
   f. *An identification of soil types used exclusively for grazing.*
   g. *An identification of agricultural uses in the area that are not dependent upon the soil*

(e.g., greenhouses), and where identified, a description of their location and nature of operation(s).

2. *Geographic*
   a. *The description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, soil quality (depth, drainage, capability classification rating, storie index rating, texture, development, unique qualities) affecting agricultural operations in the area.*
   b. *The description of management techniques that are currently used, or could be used, in order to improve soil quality for agricultural operations.*
   c. *An identification of agricultural operations that use more than one parcel for production in the area, and where identified, a description of their current practice and average acreage for each individual operation.*
   d. *A description of the relationship or proximity of agricultural and urban land uses.*
3. *Water*
   a. *The availability of water in the area (condition of basin e.g.).*
   b. *An identification of the water source (riparian, appropriative, etc.).*
   c. *An identification of any water quality problems affecting agricultural operations in the area.*
   d. *The current cost of water.*
4. *Access*
   a. *Description of whether adequate access to agricultural support facilities (cold storage, equipment repair/sales, markets) in the area currently exist.*
   b. *Where access is problematic, an identification of the nature of the conflict; and how the conflict impacts agricultural operation(s).*

CZLUO 23.04.024(a)(2) Present annual income derived from agricultural operations....and (4) the potential of the site to support future food-producing agricultural uses...could be expanded to include consideration of such factors as:

1. *History*
   a. *An identification of the types of agricultural operations that have taken place in the area in the past and where have they occurred.*
   b. *An identification of how long agricultural operations have been conducted in the area.*
   c. *An identification of those parcels that have been used for agricultural operations in the area consistently in past, and where applicable an identification of such time periods.*
   d. *An identification of significant past management practices that have been used in the area in order to increase agricultural yields.*
2. *Risk Factors*
   a. *A discussion of the effect of drought years on agricultural operations in the area and, if so, what the cost of water is during these periods.*
   b. *An analysis of whether the costs of production and labor are predictable for agricultural operations in the area.*
   c. *A discussion of whether commodity prices are consistent or inconsistent from year to year for crops grown in the area.*
   d. *A discussion of whether salt water intrusion into well water supply is an issue, and if*

so, how it affects agricultural operations in the are.

e. *An identification of whether there is a problem with crop quality in the area.*
f. *An identification of whether the agricultural market is volatile for crops grown in the area.*

3. *Economics*
   a. *An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development; and,*
   b. *An analysis of the operational expenses excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development.*
   c. *Cost shall be determined by, and consist of, the following variables:*
      1. *Fixed Costs for any given crop are assumed to be constant, regardless of the annual yield. Fixed costs shall include only current costs and shall not speculate on potential future circumstances.*
         a. *Land cost (i.e. rent, lease, property tax, etc.) shall NOT be included into the cost analysis (See Coastal Act Section 30241.5)*
         b. *Capital costs including: 1) land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.); 2) equipment (i.e., trucks, tractors, buildings, special equipment (e.g. irrigation), etc.); 3) herd expenses (i.e., payment for bulls and heifers); and 4) miscellaneous expenses. Cost determination must also include depreciation and interest expenses.*
         c. *Cultivating cost including operating costs for: 1) labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits); 2) materials (i.e., water, seed, feed supplements, salt, fertilizer, and pesticides); 3) machinery; 4) fuel and repair; and 5) outside consultants (i.e., veterinary and management).*
      2. *Variable Costs are the harvest costs and are based on the amount of yield only. Depending on the crop yield, variable costs fluctuate for any given year. In most cases, this is expressed as the cost per unit of yield (tons, 100 weight, or pounds).*
   d. *Gross Revenue shall be determined by and consists of the following variables:*
      1. *Gross returns for each crop type.*
      2. *Past return figures should factor in the appropriate Producer Price Index (PPI) figure in order to account to inflation over time.*
   e. *Evaluative methods to incorporate the above cost and revenue figures shall include, where relevant:*
      1. *Determination of the net economic impact on private and public sectors and, second, a test for agricultural viability. Net economic impact refers to change in dollar flow within the community brought about by a given change in land use. "Net economic impact" equals total public revenues minus total public costs, plus private sector income. This should be computed according to the existing land use, the proposed development, and any viable project alternatives. This may be accomplished through the following process:*
         a. *Cost/Revenue analysis that determines public costs associated with conversion of agricultural land and also revenues generated by increases in property tax within the project site. Public service marginal costs should*

compute the new and/or incremental costs of adding development to the public service system, which includes the cost of capital improvements necessary to accommodate such development. This should also state, and if possible quantify, those costs or externalities not easily accounted for in cost computations. One externality could include the probable change in assessed value of parcels adjacent to the development. Public service revenues are generated by increases in property tax within the project site.

b. Input/Output analysis that looks at the private sector of the areas economy in terms of its purchases and sales to other sector both locally and from outside the area. From this information, multipliers for each sector should be developed. Determination of the input figures will reveal the affect of removing the subject number of acres, for the subject crop, from agricultural production. This will reveal the effect to the private sector economy.

2. Determination of the minimum acreage for a viable agricultural operation (farm family approach). In order to determine net income, production costs by crop should be computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting figure represents the farmer's income per acre of productive land. The per acre income figure should then be divided into the County's Median Income figure to compute the number of acres required to support a farm family.

3. Determination of net return per acre, per crop type, for the area only. By crop type, determine gross revenue per acre for subject crop types then subtract from gross revenue figures the cost per acre associated with each crop type.

The report shall include maps and photos (aerial and site photos) of the area being evaluated that, at a minimum, identify the following on all such figures: parcel lines, parcel numbers, farm boundaries, owners and/or leassees of each parcel and/or farm, wells and/or any other water supply lines, storie ratings, capability classifications, slopes, and roads.

For purposes of this determination, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the County's certified local coastal program.

C.2. Incremental Impacts to Agricultural Lands through Land Divisions, Lot-line Adjustments, and Development on Nonconforming Parcels.

As discussed in the overview, maintaining the viability of agricultural lands is a function of many factors, including complex economic and climatological variables beyond the control of land use planning. It is important, therefore, to assure that agricultural parcel sizes and configurations are maintained so as to maximize their support for agricultural uses. For example, maintaining minimum parcel sizes is a critical component of assuring the long-term viability of agricultural lands. It is also important to rigorously analyze proposed adjustments to agricultural

parcel lines, and potential non-agricultural development on nonconforming parcels, to protect against the incremental incursion of non-agricultural uses into rural agricultural areas.

Through a number of subdivision proposals and lot-line adjustments, the County has acted to change the sizes of agricultural parcels. In addition, increasing numbers of newly discovered nonconforming parcels are being proposed for development in agricultural areas. However, the LCP policies and ordinances governing agricultural lands do not adequately address the impacts to agriculture from lot-line adjustments, and should be strengthened. Further, the County should consider amending the LCP to incorporate additional mechanisms to address existing non-conforming agricultural lots, as well as the legal process for establishing and evaluating the development potential of previously unrecognized lots in the coastal zone.

Overview: The concept of using minimum parcel sizes as a tool to assure the long-term economic viability of agricultural lands was a key goal during preparation of the LCP. In addition, Commission staff discussions with agriculturists in San Luis Obispo County indicate that there is a continuing concern over maintaining minimum parcel sizes. As discussed previously, the amount of acreage that is adequate to support agricultural practices depends on many factors, including the specific site location, soils, crops grown, weather, and the level of economic income desired.[33] Increasing prices and other economic changes discussed previously may significantly affect the amount of land necessary for viable "minimum" parcel sizes.

The importance of maintaining a minimum parcel size to help protect agricultural uses has been recognized for decades. A 1979 study on agriculture conducted by the University of California Cooperative Services Extension Services discusses the importance of minimum parcel sizes, particularly for agricultural lands near urban development. The report states:

> *The problem of urban-agricultural interface has important implications for the establishment of minimum-acreage requirements, particularly since a farmer who chooses to reduce his acreage to the minimum parcel allowed may also be giving up certain economies of size and scale. Historically, one response to such pressures has been to shift to higher-income crops per acre. As the cost/revenue squeeze tightens, net income for a low-value crop is reduced. Shifting to a high-value crop widens the cost/revenue margin and allows an operator on a fixed amount of land to maximize his management skills. However, while this solution may maintain the viability of a given agricultural parcel, it circumvents rather than eradicates the problem.*[34]

The LCP establishes minimum parcel sizes for agriculturally zoned land, depending on use and soil quality. The minimum parcel areas range from 20 acres for more intensive agricultural cultivation to 320 acres for grazing. However, the University of California study indicates that

[33] Julie Clark, American Farmland Trust. Pers. comm. 6/2/00.
[34] Goldman, George and David Strong. *Economic Considerations of California Coastal Agriculture: An Analysis of Feasibility, Acreage Requirements, and Dual Land Use for Selected Crops and Geographic Areas (Draft). University of California Cooperative Extension Services,* August, 1979. pg. 28.

these sizes may not be adequate to ensure agricultural viability in at least some cases.[35] The findings estimate the minimum parcel sizes necessary for grazing at 700-1,470 acres for cow/calf operations and 791-1,800 acres for stocker operations.

One emerging concern in San Luis Obispo County is a potential change in minimum parcel sizes due to the change from non-irrigated to irrigated lands, particularly to vineyards. As noted previously, the extent of prime agricultural lands, as defined by the FMMP, has increased by approximately 20% since 1988, in part because of the increase of irrigated lands. Based on 1996 data from the Department of Water Resources, approximately 8,800 acres in the coastal zone (approximately 7%), zoned for agriculture, are classified as irrigated. The majority of these irrigated lands are in the Estero and South County planning areas, with some in the North Coast area. The predominant crops include field crops; truck, nursery, and berry crops; citrus and subtropical crops; and irrigated pasture lands.

The LCP allows a much smaller minimum parcel size for irrigated lands than for non-irrigated lands. However, if a parcel is divided under these standards, the long-term economic viability of the parcel may be more at risk. With smaller parcels, farmers have fewer options to address various economic and environmental changes. In addition, lot divisions or other types of development can change the primary use of land and may increase the potential for rural homesteads, and more urban development, rather than for agricultural practices.

LCP Implementation: This section address four concerns related to maintaining agricultural land uses: (1) subdivision of agricultural land; (2) nonconforming agricultural parcels; (3) the Certificate of Compliance process; and (4) lot-line adjustments on agricultural lands.

Subdivision of Agricultural Land

Subdivisions of agricultural lands are governed by Policy 2 of the LCP and Ordinance 23.04.024 (e, f). Policy 2 states that land divisions in agricultural areas "shall not limit existing or potential agricultural capability" and shall adhere to minimum parcel sizes. Land divisions on prime agricultural lands must comply with the following standards:

1. *Division of land is prohibited unless it is demonstrated that the agricultural production of at least three crops common to the agricultural economy will not be diminished.*
2. *Building sites will not be created on prime soils.*
3. *Adequate water supplies are available for habitat values, proposed development, and to support existing agricultural viability.*

For land divisions on non-prime lands, the County must find that the land division will "maintain or enhance the agricultural viability of the site" (Ordinance 23.04.024 (f)). In addition, the North Coast Area Plan requires that any land division on the Hearst Ranch shall (1) constitute an individually viable agriculture unit or (2) improve the viability of adjacent holdings or serve a necessary public service and not significantly reduce agricultural viability.

[35] *Ibid.* pg. 35.

Ordinance 23.04.024 of the LCP defines the minimum parcel sizes for agricultural lands (see Table 5-3). These minimum parcel sizes are based on either 1) the existing type of agricultural use of a parcel, 2) the soil classification of a parcel, or 3) the requirements of an agricultural contract under the Williamson Act. Twenty acres is the smallest parcel size allowed for agriculturally zoned lands.

Table 5-3: Minimum Parcel Size Criteria

Criteria	Minimum Parcel Size
Based on Land Use:	
Irrigated Row Crops	20 acres
Animal Facilities	20 acres
Agricultural Processing	20 acres
Irrigated Pasture	30 acres
Orchards, Vineyards	40 acres
Dry Farm Fields	80 acres
Dry Farm hay/alfalfa	160 acres
Grazing	320 acres
Based on Land Capability:	
Class 1	20 acres
Class II	40 acres
Class III	80 acres
Class IV-VI	160 acres
Class VII-VIII	320 acres
Based on Agricultural Preserve:	Dependent on contract

Source: San Luis Obispo County LCP

In addition, some area plans have more specific standards in some cases: the San Luis Bay area plan requires a minimum parcel size of 80 acres for agricultural land in the Diablo Canyon Coastal Terrace, unless a larger size is required under the Land Use Ordinance. The South County plan requires a minimum of 40 acre parcel sizes for land divisions in Oso Flaco Valley, unless a larger parcel is required under the Land Use Ordinances.

Agricultural Policy 2 notes that the parcel sizes defined in the LCP are ***minimum*** parcel sizes; complying with the criteria identified in the policy and Ordinance 23.04.024 may require maintaining larger parcel sizes. As part of the County's review for land divisions in the agricultural land use category, applicants must include an agricultural viability report, including existing land uses, annual income, site characteristics, potential for future agricultural uses, and effects from the proposed subdivision (23.04.024 (a)) to ensure long-term protection of agricultural resources. As noted previously, expansion of these reports in light of new information on agricultural resources may be necessary to assure long term protection of agricultural lands.

Review of County Actions: Between 1988 and 1998, the County approved only two subdivision permits on agricultural lands (FLANs 4-SLO- 91-131 (CO 89-399) and 3-SLO-93-084 (CO 90-164)).[36] In FLAN 3-SLO- 91-131, the County authorized a subdivision of a 360 acre parcel into two parcels of 320 and 40 acres. The existing uses of the land at the time were grazing and row crops. The reason for the subdivision is not entirely clear from the reported action, although a number of conditions in the permit suggest that the future residential use on the new parcel was anticipated. These include conditions requiring low-flow water fixtures and EPA-approved wood stoves in future residential uses; dedication of an access to the new parcel; disclosure to prospective buyers of potential conflicts with surrounding agricultural uses; and minimizing of visual impacts from future residential development.

In FLAN 3-SLO-93-084, the County authorized a subdivision of 233 acres mostly in the coastal zone at the far southern end of the County into two parcels of 213 and 20 acres. The existing uses of land at the time were irrigated vegetable crops and a vegetable cooling and shipping facility. Again, it is not clear from the report exactly what the purpose of this subdivision was, although the 20 acre parcel was designed to separate out the cooling and shipping facility from the majority of the parcel.

In both actions, the County maintained the minimum parcel sizes required under Ordinance 23.04.024(b). In addition, an agricultural viability report was done for both projects, as required under the LCP. For FLAN 3-SLO-91-131, though, the viability report discusses the potential for increased residential development as a result of the proposed subdivision. The findings state that the increase in residential uses will be relatively small, and indicates that residential development could be sited to assure a buffer between agricultural and residential uses.

The agricultural viability report for 3-SLO-93-084 analyzed the impacts from the proposed subdivision on the potential loss of agricultural soils, increasing pressure to convert agricultural lands to non-agricultural uses, and on the potential for conflicts between agricultural and non-agricultural uses. The analysis found that the proposed subdivision could lead to a potential loss of eight acres of agricultural land from expansion of the existing facility, but not significantly affect agricultural resources. While noting the potential increase in residential development from the proposed subdivision, the report also notes that the proposed project is unlikely to result in converting agricultural lands to other uses, due to the low desirability for residences because of the nature of the area (the cooling facility is immediately adjacent to a rail line). In addition, the majority of the land remains as one parcel, under cultivation.

Under Ordinance 23.04.024, the County must find that new subdivisions do not lead to the creation of building pads on prime soils. This policy is an important component of protecting agricultural lands through the appropriate siting of new development. As discussed above, residential development appears to be unlikely on the parcel created through 3-SLO-93-084, although the subdivision did create a new legal lot that could support two future residential units (one primary unit and one farm support unit for each parcel). Were redevelopment of the

[36] Figures are obtained from notices of final local actions received by the Commission and through GIS mapping to identify projects on agricultural zoned lands.

existing facility to occur, it would be difficult to not allow future proposed residential development on a now existing legal lot. The remaining larger lot contains Class I and Class II soils, which are considered prime soils.

The lots under FLAN 4-SLO- 91-131, support Class III and Class IV soils, which are not considered prime for row crops (lands may be prime grazing lands depending on their capabilities). However, neither the County's findings nor the viability report determine whether the resulting parcels from either subdivision contain prime soils based on other Coastal Act criteria (see sidebox, Background Section), and do not fully analyze whether these subdivisions create the need to place any future proposed residential units on prime soils.

While the approval of only two subdivisions probably does not raise great concerns, it does add to the potential cumulative changes that can incrementally erode agricultural lands. Without assuring that the creation of new parcels does not lead to the future development of prime agricultural lands, the County cannot adequately protect agricultural resources. To be sure, increases in the number of parcels from additional subdivisions could significantly alter the land patterns and could affect the economics of agricultural use and the long-term viability of the lands. As the Commission found in its evaluation of the North Coast Update submittal in 1998, "[o]nce land is divided, even it if maintains agricultural uses in the short run, the legal landscape for future parcel development is irrevocably changed".[37]

Although the potential for increased residential development was noted in the viability reports for the two subdivisions that have occurred on agriculture lands since certification, and the creation of only two new lots may not raise immediate significant issues, the potential for additional subdivisions and associated residential development throughout the County's coastal zone may be significant. In its review of the proposed North Coast Update (Amendment 1-97), the Commission found that a potential of 150 parcels could be created on the Hearst Ranch alone, resulting in a hypothetical development of 300 residential units, assuming that each parcel developed with a primary and secondary residence for farm support as allowed under the current LCP. This finding, though, was not based on an analysis of existing legal parcels. Rather, it was based on a rough estimate derived by dividing the 48,000 acre ranch by the 320 minimum parcel size for grazing.

Subdivision potential of agricultural lands in San Luis Obispo can also be analyzed using existing parcel sizes (from current TRW data) and vegetation data from the Department of Water Resources (1996 data). Using assumptions based on lot size and land capability[38], in the North Coast planning region, for example, an estimated 21 lots were identified that hypothetically could be subdivided while maintaining the minimum parcel sizes noted above (see Map 5-B for assessor parcels in the North Coast). An estimated 16 parcels support native vegetation, and are

[37] California Coastal Commission. Findings for LCPA 1-97 (North Coast Area Plan Update). January, 1998. pg. 109.

[38] In this analysis, the following assumptions were made: DWR's classification of native vegetation supports, or could support grazing (minimum parcel size 320 acres); DWR's classification of "truck crops" is used as an estimate for irrigated row crops (minimum parcel size 20 acres); and calculations for subdivision potential are limited to those lands actually zoned as agriculture under the LUP (other parcels may support agricultural uses and may be large enough for future subdivisions).

of sufficient size to be subdivided into two parcels each of 320 acres or greater (i.e. base parcel greater than or equal to 640 acres). An additional five lots support a mix of native vegetation and truck crops; each lot may be able to be subdivided into more than two parcels smaller than 320 acres. It should be emphasized that this analysis is based on assessor parcel data that may or may not reflect actual legal parcels and thus, the actual subdivision potential of rural areas may be substantially different. Without legal documentation of valid parcels, it is difficult to project development potential.

Similarly, in the Estero planning region, an estimated 13 parcels have the potential to be subdivided. Five of these parcels are assumed to support grazing, and can potentially be subdivided into a total of 10 parcels. An additional eight parcels support a mix of native vegetation and truck crops; most of these parcels have the potential to be subdivided into more than two lots. The existing configuration of assessor parcels for Estero is shown in Map 5-B. In the South County planning region, an estimated 25 parcels have the potential for future subdivisions, based on crop type and parcel size. The majority of these parcels are identified as having primarily truck crops. Many of them range in size from 100 acres, up to 420 acres; as a result the subdivision potential is much greater than a simple split into two parcels. Review of data for parcels in the San Luis Bay planning area indicates no parcel large enough for a potential subdivision, based on available data.[39]

Overall, this exercise shows that a significant number of new parcels could be potentially created in agricultural lands, assuming that all other LCP tests for subdividing agricultural lands could be met. Even if these subdivisions comply with the minimum parcel sizes required under the LCP, the potential for significantly changing the legal parcel landscape, and the effect on long-term agricultural uses, is high. An increase in the number of lots can significantly increase non-agricultural development, increasing conflicts between residential and agricultural uses, increasing the physical extent of land covered by residential development, and potentially altering the economics of the region to decrease the viability of agriculture as a predominant use. A prior economic study of agriculture details some of the conflicts between urban and agricultural uses:

> *Urban development and speculation for future development raise the property value and tax of land adjacent to developed areas. ... [A]gricultural land near urban development tends to become less productive because of sanctions against spraying chemical near urban fringes, vandalism, and cost increases resulting from security precautions, fencing, maintaining appearances, etc. In addition, pet dogs from residential developments, trespassers, and cuts and fills for homes and roadways tend to deteriorate the stability of farm lands.*[40]

Overall, it is important that the LCP have strong policies and standards to address long-term potential impacts to agricultural lands.

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[39] It should be emphasized that this subdivision hypothetical is not based on confirmed legal parcels and thus may or may not reflect actual subdivision/development potential.

[40] Goldman, George and David Strong. *Economic Considerations of California Coastal Agriculture: An Analysis of Feasibility, Acreage Requirements, and Dual Land Use for Selected Crops and Geographic Areas (Draft).* August, 1979. pg. 28

Non-Conforming Parcels

Past land division practices have created problems for present day planners, decision makers and others interested in maximizing the retention of productive agricultural land. In the not too distant past, it was simple to divide land into virtually any size or configuration desired. The result of this permissive approach is that there are a significant number of parcels zoned for agriculture that are smaller than the now required minimum parcel size and are also often poorly configured for development, access, and avoiding impacts to ESHA. These parcels are now considered "non-conforming" because they do not meet the current size standard for parcels in the Agriculture Zone district. Based on the Commission's experience in San Luis Obispo and other coastal counties, these non-conforming parcels are frequently under a common ownership, not developed with residential or other uses and are used together to function as a single agricultural operation. The "Middle", "South" and "North" ranches on the Harmony coast are good examples of this concept of multiple parcels functioning as a single site for management purposes.

Often, these non-conforming parcels were created legally, that is to say, they met the standards (often quite minimal) for land divisions at the time they were created. Examples include "deeding out" or the simple recordation of a map with the County. Others were created illegally, in that the division did not meet the standard required at the time the land was divided. The methods for resolving the status of these kinds of parcels is discussed in the following section concerning Certificates of Compliance.

The planning problems engendered by non-conforming parcels regarding the protection of agriculture are evident. As long as the parcels remain in common ownership and function as an aggregate they often support a viable agricultural operation because as a whole, they are large enough to do so and are unconstrained by superfluous, non-agricultural development. The problem comes when the owner of the parcels decides to break up the ranch and sell off the parcels individually. The outcome of this scenario is usually the dispersal of the parcels to various owners, development of non-agricultural (usually residences) on all parcels and the demise of any agricultural use beyond the "hobby" farm. The completed pattern of development is not only inconsistent with the preservation of agricultural land but may also result in a variety of adverse impacts on visual resources, ESHA and the character of the area.

A good example of this incremental erosion of agriculture is the North Cambria Ranch project. The North Cambria Ranch is located about three miles north of Cambria and approximately one mile inland from the coast. Although this ranch had supported cattle grazing, at some point the County had issued certificates for 14 separate legal parcels that together made up the ranch (see below for discussion of this legal process). The parcels ranged from 21 to 163 acres, making them nonconforming under the Agricultural zoning of the LCP.

In the late 1980s, the owner of the Cambria Ranch proposed upgrading existing ranch roads on and to the ranch. The Commission issued an administrative permit for a portion of the road, based on representations from the applicant that the road was "necessary to support an existing cattle operation" (see 4-87-288). The County also approved a road project, although great controversy surrounded the approval, which was perceived by some as the development of a road

to facilitate residential development on the ranch (4-SLO-90-103).[41] The project was appealed to the Commission. The Commission found that no substantial issue was raised by the project (A-4-SLO-90-037).

It was well understood that the road project had implications for future impacts to the ranch through residential development. The EIR for the road analyzed potential visual impacts to Highway One, impacts to environmentally sensitive habitat and agriculture. Significantly, the EIR discusses the evaluation of the Department of Agriculture which concluded that there would be no loss of prime, flat agricultural land, and that conflicts between grazing uses and future residential uses would probably be minimal. The Department also concluded, though, that the "the ability to lease the entire ranch for a rangeland cattle operation would be reduced or eliminated with the sale of individual parcels" and, as summarized by the EIR, "that none on the individual parcels on their own would be considered a viable agricultural unit."

The County's approval of the road project did have a condition that limited future residential development on each to one single primary residence, and prohibited secondary residences, guest houses, or farm labor quarters. The permit did not, however, clearly prohibit subdivision of the parcels, although the permit restrictions on future residential development could be interpreted as not allowing such future land division. Since the road project, at least seven residential projects and one lot-line adjustment have been approved on the Ranch (see Map 5-B).

One lesson taken from the Cambria Ranch case is the importance of comprehensively evaluating and planning for potential development in rural areas, particularly when non-conforming parcels may exist that could undermine the purpose of Agricultural zoning. In general, the number of these non-conforming parcels in the urban areas of San Luis Obispo is, by and large, a known quantity. Cambria for example requires a current minimum parcel size of 6000 square feet for any new land division in the urban area but has many hundreds of smaller non-conforming parcels, typically 1750 square feet (see Chapter 2 for detail). Because the number of non-conforming parcels is known in Cambria, their impact can be analyzed and the LCP includes a variety of programs and policies to mitigate their effect.

The number of non-conforming parcels in the rural area, though, is not known with the same degree of certainty as in Cambria, thus the LCP cannot analyze the impacts as closely. Nor does it contain comprehensive strategies for mitigating the effect on agriculture and other coastal resources caused by development on these non-conforming parcels. In effect, the impacts of these non-conforming parcels are dealt with on a case by case basis using a limited arsenal of planning and legal tools. Projects may also be piece-mealed, as lots are adjusted, roads developed, and individual residences built, thus making it difficult to assess the cumulative impacts of development. Indeed, one of the findings in the EIR for the Cambria Ranch project was that the future build-out of the ranch to residential uses was not a significant impact to agriculture within the context of the entire agricultural value of the County. These finding could be made potentially for any individual project, ultimate leading to the cumulative loss of agricultural land without comprehensive analysis.

[41] The project was also controversial because of the proposed use of mine tailings for the road base. Historically there had been some mining activities on the Ranch at the end of the 19th century.

Given the limited policy and legal resources to address this issue the County, and occasionally the Commission on appeal, have done reasonably well in reducing the impacts of development of these lots on agricultural use, however, more agricultural land has been lost than might have been had a more effective set of policy requirements been in place to address this issue. At the end of this issue discussion, various options are presented to respond to this problem as well as related concerns having to do with certificates of compliance and the lot-line adjustment process, discussed below.

Certificates of Compliance

The Subdivision Map Act provides the method for determining the legal status of parcels of land through the issuance of formal certificates (Government Code Section 66499.35). Basically, there are two kinds of certificates that may be issued. The first type is a *Certificate of Compliance* (COC). This Certificate is issued by the local government, at the request of the landowner, if the local jurisdiction is satisfied by the evidence presented that the parcel in question did in fact meet the legal requirements in effect at the time the parcel was created.

A good example of where a regular Certificate of Compliance might be issued is the case of an owner of a 1750 sq. ft. lot in the subdivided Lodge Hill area in Cambria that might be concerned about the legality of his or her lot and, because of this, might request a Certificate. The evidence would be that the lot in question is depicted on a tract map filed with the recorder in 1920 and at that time, the filing of a map was all that was needed to effect a subdivision of land. Therefore, a Certificate of Compliance does not create a new, legal lot it simply confirms the existence of an already, legal lot.[42] In order to determine whether a request for a Certificate of Compliance should be approved though, the County must be familiar with the requirements for legal subdivision for any time period over the last hundred and fifty years and ensure that the evidence submitted to support the claimant's request meets the appropriate criteria. This requires substantial skills and knowledge of conveyancing, law at the time, interpretation of deeds and the ability to read and follow a property description. Without this skill/training, COCs can be issued in error.

According to data submitted by the County, San Luis Obispo has processed approximately 363 COCs for properties in the coastal zone since LCP certification. These approvals are not reported to the Commission. This is because the LCP does not require public notice of these, citing the Subdivision Map Act Section 66499.35(a) conclusion that the issuance of a straight COC is a ministerial act (LCP Ordinance 21.02,020(c)(2)). The LCP also does not include COCs within the definition of "subdivision development," although conditional COCs, discussed below, are defined as such (see 21.08.020(a)).

[42] Another typical example would be when the County actually requires the recordation of a certificate of compliance for newly configured lots as a condition to an approved lot-line adjustment or lot merger. The certificate is unconditional because the real property was "created" through a legally-circumscribed process, consistent with the Subdivision Map Act. Thus, the issuance of certificate of compliance is merely recognizing the legal existence of the newly defined property. Data collected from reported CDPs show 46 cases where certificates were required to be recorded as a condition of approval for the project (for example, 28 lot-line adjustments). A majority of these were certifying lots in urban areas such as Cambria and Cayucos.

In addition, because of the lack of notice and review, the Commission cannot know how many COCs, if any, were issued in error or if a standard analytical methodology is consistently used by a qualified analyst. The legalization of a parcel (usually a non-conforming parcel) is sufficiently significant that each request should be subject to sufficient analysis to ensure that only eligible parcels receive a certificate.

Many of the COCs issued by the County since certification were for parcels in urban areas. These raise less of a concern for coastal resource protection or may even reflect positive development trends, such as the merger of small parcels in Cambria. Because of the potential significance of certified parcels for cumulative development patterns, though, particularly in rural areas, options should be considered that would assure that Certificates of Compliance are issued only for parcels that are truly entitled to these documents.[43] Enhanced coordination between the County and Commission could also take advantage of mutual staff resources to improve the COC review process. Such options could include:

- Preparation and use of a manual by the County and Commission that states what the applicable requirements were for subdivision for the period between 1850 and the present. Update annually.

- Train County and Commission staff to adequately analyze evidence given to support claims (interpret law applicable at the time parcel was created, interpret deeds, maps, follow legal descriptions of property and be familiar with various forms of property conveyance (Director's deeds, severances in eminent domain, etc.)

- Require written staff reports to be approved by the Planning Director that support the recommendation to issue a COC; such reports should be noticed to the Commission to allow for coordinated legal review and Commission comment, within the timeframes of the County's review process, prior to Director approval.

The second type of certificate is a *Conditional Certificate of Compliance* (CCOC). These certificates may be issued by local jurisdictions to legalize a parcel that was not created in accordance with the applicable regulations in place at the time it was created. In this case, a new, legal parcel is being created and the local government has more discretion in issuing these certificates. If the original subdivider is the applicant, the local government may impose any

[43] The Morro Bay Limited residential lot-line adjustment proposal is a good example of why thorough and detailed review of COCs is necessary. The agricultural land in this area was used as a single agricultural operation – "Middle Ranch". The historic Middle Ranch, though, was effectively subdivided through the legal recognition of eight developable albeit non-conforming parcels. Written evidence was presented to the County that established the presence of multiple parcels, ranging in size from 1.4 acres to 318 acres, on the ranch that did not conform to the required minimum lot size of 320 acres that would typically apply on such grazing lands. This evidence consisted primarily of deeds of sale describing individual pieces of property that together made up the larger Middle Ranch. Although these parcels had been in single ownership for some time, there is no discretion to not provide them with legal recognition under the State Subdivision Map Act if they were legally created. More important, once certified, it is difficult to limit development potential on such parcels without raising questions about Constitutional property rights.

conditions on the certificate that would have applied to the land division at the time the parcel was created. The local government may also deny a Conditional Certificate of Compliance (Pescolidito v. Mendocino) in certain circumstances. It is unclear, because it has not been tested in court, whether a local jurisdiction can refuse to accept an application for a Conditional Certificate of Compliance and instead pursue the resolution of the creation of an illegal parcel through their enforcement authority – as a violation of regulations in effect at the time the parcel was created.

As mentioned, because of the administrative discretion involved in issuing CCOCs, they are required to be noticed to the Commission under the LCP. CCOCs are also considered to be subdivision development, subject to coastal development permit requirements. The issuance of CCOCs has not contributed substantially to the number of non-conforming parcels in San Luis Obispo. According to County data, since 1978 approximately 30 CCOCs have been issued in the coastal zone, including parcels in urban and rural areas. Nonetheless, the issuance of CCOCs can cumulatively erode the preservation of agricultural land as nonconforming parcels are recognized and developed. It is important, therefore, that any CCOCs that may be issued have conditions that maximize protection of coastal resources.

One such example of CCOCs on agricultural land occurred in the Estero planning area that illustrates the issue. In 1995 the County issued conditional certificates of compliance for several lots in the Morro Creek watershed because the subdivision that had purportedly created them had not received a coastal development permit. The original parcel was approximately 173 acres, and was divided into six separate parcels. Initially, the County proposed conditions on the certificates that would have required that the parcels be increased in size to more closely approximate the minimum parcel sizes required in this agricultural area. Another condition on one parcel would have prohibited future residential uses within a riparian setback. Unfortunately, because the illegally created parcels had already been sold to persons unaware of the parcel's illegal status, it was decided by both the County and the Commission that conditioning the certificates was not equitable under the circumstances. The County did pursue notices of violation on three remaining parcels, though, that were still in the ownership of the original subdivider (see 3-SLO-96-027; 3-SLO-96-046; 3-SLO-96-047; A-3-SLO-96-046; A-3-SLO-96-060; A-3-SLO-96-061). In the end, the issuance of three CCOCs (without conditions) resulted in the creation of nonconforming agricultural parcels that could be further developed with residential uses, potentially undermining the long-term viability of the agricultural lands.[44]

Similar to straight COCs, the LCP implementation should be strengthened to provide for more comprehensive and thorough treatment of CCOCs. In particular, a strategy for limiting and ultimately eliminating this form of parcel creation should be established. Methods for achieving this goal might include:

- Treating applications for Conditional Certificates of Compliance as violations if it is conclusively determined that a proposed parcel was illegally created.

[44] Notably, the County approved a lot-line adjustment for two of the lots involved in this case in February, 2000. The adjustment appears to consolidate agricultural support facilities on one parcel, and is proposed to facilitate sale of the other parcel. This parcel is no longer a viable agricultural parcel (see 3-SLO-00-104).

- Requiring the assessor and recorder to note on assessor's parcel maps and recorded maps that County approval for this parcel has not been obtained unless proof of approval is submitted with the document to be recorded or the proposed assessor map revision.

Lot Line Adjustments

Lot line adjustments (LLA) allow the owner(s) of adjacent parcels to re-configure the parcel lines to achieve a different lot pattern. The Subdivision Map Act, which provides for this procedure, states that a LLA cannot result in more parcels than originally existed, but is silent on the question of whether unbuildable lots (like a 500 sq. ft. well lot) can be made developable in the process.[45] Recent case law (73 Cal. App. 4th 231, 86 Cal. Rptr. 2d 217) has found that LLAs that essentially create new subdivisions in inappropriate areas can be denied for reasons of safety.

As with subdivisions, lot-line adjustments can significantly alter the agricultural value of rural land. They are often a primary mechanism through which non-agricultural land uses make their way into an agricultural area, as parcels are incrementally adjusted to facilitate residential and other land uses not necessarily associated with bona fide agricultural operations. It is important, therefore, to closely examine lot-line adjustment activity in agricultural areas.

As summarized in Table 5-4 (see pages 217-218), between 1988 and 1998, the County approved approximately 20 lot-line adjustments involving agricultural lands.[46] These actions did not increase the number of parcels. Nonetheless, they can significantly alter parcel sizes and thus affect the long-term viability of agriculture. Review of the County's lot line adjustments that most involve a mix of conforming and non-conforming lots. For each project, the County's actions have generally resulted in an increase in the size of one or more parcels and a subsequent decrease in size of the remaining parcel(s). For example, in FLAN 4-SLO-90-241 (Coal 89-383), the County's action resulted in an increase of a 200 acre lot to 240 acres while decreasing a 120 acre lot to 80 acres. In FLAN 3-SLO-94-007 (Coal 92-144), the County reduced two lots of 40 and 80 acres to 20 acres each while increasing a 320 acre lot to 400 acres. In two cases, it appears that the County's actions resulted in the creation of a conforming lot (FLAN 3-SLO-96-058 (Coal 95-58); FLAN 3-SLO-97-176 (COAL 97-109)). However, in each case one or more of the remaining lots decreased in size. The County's actions have not increased the number of non-conforming parcels.

Agriculture Policy 2 and Ordinance 23.04.024 regulate land divisions including lot-line adjustments.[47] Review of the County's lot-line actions, though, indicates that the County

[45] The County's *Guide to the Certificate of Compliance Process* states: "Although a certificate of compliance certify's [sic] the legality of the parcel, it neither ensures that it is a buildable parcel, nor entitles the parcel owner a construction permit or other development permits or approvals. To obtain a construction permit or other land use approval for a parcel, the owner must complete the appropriate application process and meet all existing regulations."

[46] This figure is based on lot-line adjustments known to affect agricultural lands only. In some actions, the flan does not identify the zoning of the parcels, and staff was unable to determine the zoning from mapping efforts.

[47] Under Section 21.08.020(a) of Title 21 of the County LCP subdivisions include lot line adjustments.

generally does not cite Agriculture Policy 2 or Ordinance 23.04.024 in reviewing these lot-line adjustments. Under Agricultural Policy 1 the County must assure that the lot-line adjustments do not compromise the long-term viability of agricultural lands. As previously discussed, this policy requires that agricultural lands be maintained in, or available for, agricultural production. While lot-line adjustments do not necessarily remove lands from agricultural production, they can affect the long-term use of land in ways similar to subdivisions. Specifically, lot-line adjustments can alter land patterns, emphasizing residential development or other uses, and can create parcels too small to be economically viable for long-term agricultural use. As discussed above, if the lot-line adjustments lead to an increase in rural or urban development, conflicts between urban and agricultural uses increase, and the pressure to convert remaining agricultural lands also increases.

In a number of lot-line adjustment cases reported to the Commission, the County appears to base its approval on the finding that the project makes the lot sizes equal to or better than the existing configuration.[48] However, review of the findings implementing lot line adjustments indicates that merely equalizing parcels may not be sufficient to protect agricultural lands. Generally the County had the lot line adjustment reviewed by the Agricultural Commissioner but it does not appear that full agricultural viability studies were done or other alternatives evaluated. Thus it is not clear how this "equalizing" of the parcel sizes helps protect long-term agricultural uses as opposed to other alternatives, such as creating as large a parcel as possible and reducing the smaller parcel to the minimum acreage of 20 acres, or evaluating the possibility of merging one or more parcels.

In other cases, the County has required specific measures to protect agricultural lands. In FLAN 3-SLO-94-007 (Coal 92-144), the County approved a lot line adjustment among parcels of 320, 40, 80 acres to create parcels of 400, 20, 20 acres. The County required that the 400 acre parcel be permanently protected for agriculture and prohibited secondary dwellings on each of the 20 acre parcels. While the action retains two non-conforming lots, it has specific measures to protect agricultural uses.

Review of the County's findings and appeals of projects to the Commission show several examples where lot-line adjustments appear to have increased the threat of conversion of agricultural lands to non-agricultural uses. In FLAN 3-SLO-97-008 (Coal 91-69), the County planning staff rejected a lot-line adjustment of grazing land on the Estero Bluffs because of conflicts with LCP policies. The County's Board of Supervisors approved the project, though changing two lots of approximately 40 acres and 90 acres to two lots of approximately 63 and 66 acres. The County's findings state:

[48] For example, in FLAN 4-SLO-89-315 (Coal 89-40), the County modified the parcels by only 20 acres, resulting in parcels of approximately 180 and 654 acres. In FLAN 4-SLO-89-006, the County's action resulted in lots of 420 and 60 acres.

Table 5-4: Lot Line Adjustments on Agricultural Lands

FLAN	Ag Use, if known from Flan	Initial Lot Sizes (acres)	Final Lot Sizes (acres)	Planning Area	Rational for Approval
4-SLO-89-006 (S870232L)	row crops	160.8, 673.5	180.3, 654	North Coast	equalizes area among parcels
5-SLO-89-021 (Coal 88-094)	grazing	59.5, 80, 160	60, 106.5, 133.1	North Coast	equalizes area among parcels
4-SLO-89-315 (Coal 89-040)	grazing	440, 40	420, 60	North Coast	equalizes area among parcels
4-SLO-90-241 (Coal 89-383)	grazing	120, 200	80, 240	North Coast	"will not worsen situation"
4-SLO-91-131 (C089399)	row crops	360	40, 320		subdivision shall maintain agricultural viability of site.
4-SLO-91-200 (Coal 90-124)	grazing, irrigated row crops	approx. 442, 206, 195, 138, 71	approx. 162, 167, 174, 372, 176	North Coast	enhances agricultural contract compliance by having one lot over 320 acres and remaining lots over 180 acres.
3-SLO-93-065 (Coal 90-137)	grazing	.5 (rec), 5, 5, 5	4.8, 3.4, 6.4	North Coast	conditions minimize potential impacts to insignificant levels[49]
3-SLO-93-069 (Coal 92-153)		N/A	N/A	Estero	
3-SLO-93-084 (CO 90-164)		233	213, 20	South Coast	
3-SLO-93-124 (Coal 89-397)	grazing	8 parcels from approx. 38 to 166 acres	8 parcels from approx. 39.5 to 226 acres	North Coast	establishes maximum building sizes for each parcel and leases remaining land back to Harmony Ranch
3-SLO-94-007 (Coal 92-144)		320, 40, 80	400, 20, 20		"maintains or enhances agriculture viability" compared to existing situation.
Coal 94-130 (A-3-SLO-99-014)					Info N/A
3-SLO-96-027[50] (C95-017)		173	6 parcels from approx. 23 to 35 acres	Estero	

[49] Conditions include disclosure of agricultural activities to future buyers, construct perimeter fence to keep pets away from agricultural activity; setback future residential structures. Findings note that fencing may keep cattle from grazing on approximately 15 acres, but is not considered significant.
[50] This action is for certificates of compliance for two lots of six on a 173 acre parcel. The owners proposed to subdivide the parcel prior to Coastal Commission jurisdiction. However, the subdivision was not vested, and the applicants have not applied for a permit to either the Commission or the County. The Commission appealed several of the certificates of compliance, but has not completed action on them.

FLAN	Ag Use, if known from Flan	Initial Lot Sizes (acres)	Final Lot Sizes (acres)	Planning Area	Rational for Approval
3-SLO-96-058 (Coal 95-058)	grazing	10, 24, 30, 80, 118, 225	20, 48.9, 48.9, 48.9, 320	Estero	improves situation by merging six lots into five.
3-SLO-96-107 (Coal 96-044)	grazing	approx. 161 and 672	approx. 181 and 652	North Coast	improves by increasing size of smaller parcel. Purpose of lot line to facilitate use of land areas by respective property owners and make parcel boundaries correspond to topography; changes due to court judgement in boundary dispute.
3-SLO-97-008 (Coal 91-069)	grazing	39.61, 89.65	63.04, 66.22		equalizes area between parcels. "In this case the lot line adjustment is being proposed to enhance the property for rural residential development, not enhancement of agriculture. these parcels are fragments of larger agricultural land holdings that would otherwise be difficult to sell or development. By reconfiguring the parcels, they become much more developable as two separate parcels..."
3-SLO-97-015 (Coal 96-030)		42, 46	42, 46	Estero	
3-SLO-97-160 (Coal 95-096)	grazing	1,111[51]	407, 320, 383	Estero	"maintains equal or better position"
3-SLO-97-176 (Coal 97-109)	irrigated crops; vineyard; grazing	37, 40, 7, 41	37, 20, 20, 48		"maintains equal or better position". Increases size of parcels on land better suited for agriculture.
3-SLO-98-121 (Coal 97-0141)	grazing	160, 120, 40	200, 40, 80		Doubles 40 acre to enhance existing grazing operation.

[51] Insufficient data from FLAN to determine original parcel sizes. Applicant maintains six original parcels; County maintains three original parcels.

> *In this case the lot line adjustment is being proposed to enhance the property for rural residential development, not enhancement of agriculture. These parcels are fragments of larger agricultural land holdings that would otherwise be difficult to sell for development. By reconfiguring the parcels, they become much more developable as two separate parcels...*

This finding seems to suggest that directly contrary to the required findings to maximize agricultural value, the approval is premised on maximizing the development potential of the land for residential development. Fortunately, this parcel has now been acquired for scenic and open space preservation.

In FLAN 3-SLO-93-065 (Coal 90-137), the County approved a lot-line adjustment to serve future residential development (which has not yet occurred). The project approved a lot merger from four lots to three, decreasing the acreage of two lots and increasing the acreage of one. While the County's findings state that there is no commercial viability for agriculture (lots are around 5 acres each), the findings note that the land is currently used for grazing. The viability report done for the proposed lot-line adjustment indicates a potential for significant impacts from future residential use. The report recommends fencing and buffers to mitigate the impacts. Although the land remains zoned as agriculture, the effect of the project will be to exclude grazing from the entire 15 acres of land. As discussed previously, this project represents a case where legal lots exist that do not conform to agricultural zoning standards (in this case 5 acre parcels well below the 320 acre grazing minimum); the County has little flexibility to prevent residential development in such situations. The question for evaluation then becomes what configuration of the nonconforming parcels would best maintain agricultural land uses. No new development has occurred yet on these lands, but these two actions could have resulted in a potential loss of approximately 144 acres of agricultural land to residential use. The lands subject to these two actions were probably (and still are) viable grazing lands, and conversion to other uses would not be in conformance with the LCP policies. Clarification that lot line adjustments must comply with agricultural viability analysis may help assure long term protection.

The most troubling lot-line adjustment project to be approved, though, is the Morro Bay Limited project on the Harmony coast. In appeal A-3-SLO-99-014 (appeal of Coal 94-130, Morro Bay Ltd.), the Commission found that the County had approved a lot line adjustment that was inconsistent with LCP Agriculture Policies 1 and 2 "because it convert[ed] more agricultural land than necessary to accommodate residential development".[52] In its action, the County approved a lot-line adjustment among 10 parcels of grazing land, ranging from 1.39 acres to 318.41 acres, to eight residential parcels, ranging from 20.9 acres to 54.9 acres and two agricultural parcels, ranging from 243.8 to 226.4 acres. Although all of the original lots were non-conforming lots, the County's action further reduced the largest parcel sizes. The County's action would have

[52] Coastal Commission findings for A-3-SLO-97-014. pg. 24.

converted approximately 270 acres of grazing land to residential use. On appeal, the Commission reduced the size of the eight residential parcels to range between 20 and 39.06 acres; further limited residential development on each parcel, ranging from .23 acres to 1.92 acres (total of 10.69 acres); and required the combination of the two agricultural parcels into one parcel of 542.08 acres. As a result, the amount of agricultural land converted was significantly reduced, and the main agricultural parcel complies with the minimum parcel size established in the LCP.

The lot line adjustment procedure is thus a double-edged sword. It can be used in a manner that allows the loss of agricultural land but it can also be used to preserve the maximum amount of agricultural land where there are a number of non-conforming lots in common ownership. Lot line adjustments in this case can mitigate the effects of poorly configured, but legal parcels by maximizing the size of an agricultural parcel and minimizing the size and impacts of the non-agricultural lots. Recommended changes to the LCP to achieve this goal are as follows:

- Require Lot-line adjustments to maximize the size of an agricultural parcel(s), while minimizing and clustering non-agricultural parcels. Allow parcels intended for non-agricultural use to be less than the 20 acre minimum parcel size for agricultural lands.

- Require all Lot-line Adjustments to identify access roads and building envelopes.

- Limit building envelopes to a reasonable size that minimizes potential resource impacts, such as 5000 square feet, including landscape and accessory buildings.

- Condition LLAs in a manner that requires all areas outside of designated building envelopes to be place in agricultural/open space easements.

- Adopt new lot-line adjustment standards that limit the ability to create new subdivision potential or increase the number of developable parcels (see Recommendation section below for detail).

Consistency Analysis: Sections 30241 and 30242 require that the maximum amount of lands be maintained for agricultural uses. Overall, the County has not significantly increased the number of non-conforming lots as a result of new subdivisions or lot-line adjustments, and has in several cases brought a non-conforming lot into compliance with the minimum parcel sizes under the LCP in order to further protect of agricultural lands. Additional nonconforming lots have been recognized though through the certificate of compliance process. In other cases, the County appears to have authorized lot-line adjustments to support residential uses, rather than protecting the agricultural uses of the land. In these cases, the County's actions do not strictly comply with Agriculture Policy 1 and 2 of the LCP. The cumulative effect of future additional subdivisions, lot-line adjustments, and certificates of compliance could significantly change land use patterns, decrease overall parcel sizes, and may decrease the overall long-term viability of

agricultural lands, inconsistent with the Coastal Act. More generally, County findings do not typically address the long-term viability of agriculture as a result of approved subdivision, lot-line adjustments, or certificate of compliance actions. Improving the County's analysis of agricultural viability in future projects would better assure consistency with the Coastal Act objectives.

Preliminary Policy Alternatives: As with the issue of rezoning of lands discussed in Section C.1, there is a need to ensure that County findings for projects proposed on agricultural lands fully address the existing LCP standards. There is also a need to strengthen the LCP to better address the problems discussed above, particularly development trends on non-conforming agricultural parcels. For subdivision proposals on agricultural lands, including lot-line adjustments, the County should ensure that its findings specifically address the criteria under Agriculture Policy 2 of the LCP.

The County is in the process of considering changes to two Area Plans that may begin to address these concerns, including modifying and adding policies governing subdivisions and lot-line adjustments on agricultural lands. In the North Coast, the County's modifications propose that applications for land divisions and lot-line adjustments in Agriculture and Rural Land categories, include an Agricultural viability report.[53] For lot-line adjustments involving three or more parcels, the County proposes that parcel lines be "configured to maintain and enhance agriculture viability, while discouraging conversion of the property from agriculture to residential as the principal use".[54] The modifications also require findings to show that the "resulting parcel configuration and potential ownership pattern, together with the use of easements, maintains and potentially enhances agricultural viability" and that "the resulting parcels and potential non-agricultural uses will not have an adverse impacts (including on water availability) on the continuance of agriculture in the surrounding area".[55]

In addition, the proposed North Coast Update would broaden existing Policy 1 (Rural Area Standards) that currently governs land divisions only on Hearst Ranch to be a more general policy regulating land divisions and lot line adjustments on agricultural lands for all of the North Coast. The proposed policy provides, in part:

> *Except for division necessary for the continued operation of existing public works or services, such as Highway One, or where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use*, any land division proposed in the Agriculture Category shall satisfy the following criteria: *...each resulting parcel from the* division shall constitute an individually viable agricultural unit or the division shall improve the viability of adjacent holdings; *applications for any land divisions or lot line adjustments, shall include an agricultural viability report ...*

[53] Proposed Policy 23, North Coast Update, January 2000. pg. 7-12
[54] Proposed Policy 24, North Coast Update, January 2000. pg. 7-12
[55] San Luis Obispo County Department of Planning and Building. *North Coast Area Plan Update.* January 2000. pg. 7-12-13.

In the Estero region, the County proposes modified policies to govern lot-line adjustments in rural areas for applications involving two or more parcels to require an agriculture viability report if viability is determined to be an issue and to address protection of sensitive site features and agricultural lands. For example, the update proposes:

> *In order to protect sensitive site features ... or maintain or enhance agricultural viability, lot line adjustments may include parcels whose sizes are below the minimum sizes for the applicable land use category as specified in the CZLUO. In that case, such proposed parcels and resulting development shall be concentrated in the least sensitive and least agriculturally viable areas, while the remaining larger parcel(s) ... permanently protect the identified sensitive features and viable agricultural land.*
>
> *In the Agriculture land use category, parcel lines shall be configured to maintain or enhance agricultural viability, while discouraging conversion of the property from agriculture to residential as the principal use.*[56]

Additional provisions may be needed. For example, to fully ensure the protection of agricultural viability, standards should be established for the entire coastal zone of the County. Lot-line adjustments, including those of fewer than three lots, should be authorized *only* when the proposal maintains or enhances agricultural viability. In those cases where the development of nonadjusted nonconforming lots would have a greater impact to agricultural land than if lots were adjusted, the adjustment should be the minimum necessary to allow for private development while maximizing agricultural protections. In addition, to determine the effect of lot-line adjustments on agriculture viability, a viability analysis should be done for all subdivisions and lot-line adjustments on agricultural lands.

Another protection that should be implemented is a standard to assure that lot-line adjustments do not result in the creation of any new subdivision potential of agricultural land, and that there is no increase in the number of developable parcels over that number which existed prior to the proposed adjustment. Although these requirements are certainly implicit in the LCP's existing policies and standards to maximize protection of agriculture, more explicit policy language and requirements are needed. Sonoma County has adopted an ordinance that places these limitations on lot-line adjustments, including clarifying what constitutes a developable parcel:

[56] San Luis Obispo County Department of Planning and Building. *Estero Area Plan, Public Hearing Draft.* February 1999. pg. 7-30.

Sonoma County, Sec. 26-88-190. Limitations on lot line adjustments.

(a) Notwithstanding any ether provision of this code, except as otherwise provided in subsection (b) of this section, all lot line adjustments shall be subject to the following limitations:

(1) No lot line adjustment shall result in increased subdivision potential for any affected parcel;

(2) No lot line adjustment shall result in a greater number of developable parcels than existed prior to the adjustment. To be deemed a developable parcel for the purposes of this subsection, a parcel shall comply with one of the following requirements:

(i) The parcel meets all of the following criteria:

(A) The parcel has legal access to a public road or right-of-way, or is served by an existing private road that connects to a public road or right-of-way; and

(B) The parcel is served by public sewer, or the parcel, as determined by the planning director, is likely to meet the criteria for approval of an on-site sewage disposal system for a one bedroom residence, as specified in Chapters 7 and 24 of this code and in the basin plans adopted by the applicable regional water quality control board, without the use of an off-site septic easement. For the purposes of this subsection, "served by public sewer" shall mean either that a parcel is currently receiving public sewer service or that a public agency providing such service has stated in writing and without qualification that it will serve the parcel; and

(C) On parcels less than twenty-five (25) acres, the parcel is served by public water supply, or the parcel is located within an Area 1, 2, or 3 groundwater availability area as shown on Figures RC-2a to RC-2i of the general plan. Where public water service is not available and where the parcel is located within an Area 4 groundwater availability area, a well or spring yield test, as defined in Section 7-12 of this code, shall be required to demonstrate that an adequate water supply is available on-site or off-site. For the purposes of this subsection, "served by public water supply" shall mean either that a parcel is currently receiving public water service or that a public agency providing such service has stated in writing and without qualification that it will serve the parcel; or

(ii) The parcel has an existing legal dwelling unit or had a legal dwelling unit which was destroyed by fire or other calamity within the last five (5) years.

(b)The provisions of subsection (a)(2) shall not apply to any of the following:

(1) Any lot line adjustment where all of the affected parcels are in the CO (administrative and professional office), C1 (neighborhood commercial), C2 (retail business and service), C3 (general commercial), LC (limited commercial), K (recreation and visitor-serving), MP (industrial park), M1 (limited urban industrial), M2 (heavy industrial), M3 (limited rural industrial), or PF (public facilities) zoning districts;

(2) Any lot line adjustment where all of the parcels resulting from the lot line adjustment comply with the applicable density and minimum lot size requirements of this chapter and the general plan;

(3) Any lot line adjustment where all of the affected parcels were lawfully created on or after March 1, 1967;

(4) Any lot line adjustment where all of the affected parcels are in the LIA (land intensive agriculture), LEA (land extensive agriculture), or DA (diverse agriculture) zoning districts, provided that all of the parcels resulting from the lot line adjustment are a minimum of ten (10) acres in size and the owners of those parcels all record covenants, in a form satisfactory to county counsel, prohibiting any new residential development on the parcels for a period of ten (10) years, except for agricultural employee housing, farm family housing, and seasonal and year-round farmworker housing, as allowed by the applicable zoning district;

(5) Any lot line adjustment for which an application was filed and determined to be complete by the planning department on or before March 23, 1999 provided that the application is not thereafter withdrawn, denied, or substantially revised. (Ord. No. 5154 § 1(b), 1999.)

Finally, currently, Agriculture Policy 2 and Ordinance 23.04.024(a) regulate subdivisions of agricultural lands in order to prevent the loss of viable agricultural resources. As noted, clarifying that lot line adjustments are subject to this policy may provide additional ways to improve the County's protection of agricultural resources. As analyzed above, though, there are many different land use trends and planning aspects that may combine to undermine agricultural protections. Therefore, the County should consider adding a new set of policies that more comprehensively addresses these concerns. Potential policy options include:

Preliminary Recommendation 5-4: Develop a new LCP policy/ordinance to address development in Agricultural Areas. As discussed, a comprehensive evaluation of

existing policies and ordinances and possible modifications should be completed to accomplish the following:

- Clarifying that Land Division requirements apply to Lot-line adjustments.

- Assuring that Lot-line adjustments maintain and enhance agricultural viability. Lot-line adjustments, including those of fewer than three lots, should be authorized *only* when the proposal maintains or enhances agricultural viability through easements, buffers, and other conditions to protect future agricultural activities and land uses. In those cases where the development of nonadjusted nonconforming lots would have a greater impact to agricultural land than if lots were adjusted, the adjustment should be the minimum necessary to allow for private development while maximizing agricultural protections.

- Require Lot-line adjustments to maximize the size of an agricultural parcel(s), while minimizing and clustering non-agricultural parcels. Allow parcels intended for non-agricultural use to be less than the 20 acre minimum parcel size for agricultural lands.

- Prohibit Lot-line adjustments from creating new subdivision potential or increasing the number of developable parcels over those existing prior to the lot-line adjustment proposal. Evaluate original purpose of parcels and the applicant's economic-backed expectations.

- Require all Lot-line Adjustments to identify access roads and building envelopes.

- Limit building envelopes to a reasonable size that minimizes potential resource impacts, such as 5000 square feet, including landscape and accessory buildings.

- To determine the effect of lot-line adjustments on agriculture viability, a viability analysis should be done for all subdivisions and lot-line adjustments on agricultural lands.
- Ensure that all geographically contiguous parcels in common ownership are addressed through comprehensive evaluation at LLA stage.

In addition, incorporate similar provisions in Area Plans for North Coast and Estero Area Plans and apply them to applications involving two or more parcels.

Preliminary Recommendation 5-5: Consider standards to govern existing non-conforming lots in agriculture.[57] Pursue policies and programs to provide for more

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[57] One option in reviewing lot-line adjustments it to encourage lot mergers to increase the size of agricultural lots. Agriculture Policy 6 states:

> *In some portions of the coastal zone where historical land divisions created lots that are now sub-standard, the Land Use Element shall identify areas where parcel under single contiguous*

comprehensive treatment of nonconforming agricultural parcels, including: obtaining a count of the number of non-conforming parcels in the rural area by Planning Area; revising the agricultural standards to require maximizing the agricultural potential of non-conforming parcels by clustering non-agricultural uses; defining maximum building/landscaping envelopes such as 5000 square feet; minimizing road construction; and so forth.

Preliminary Recommendation 5-6: Explore adopting a merger ordinance for non-conforming Agricultural parcels, as provided in the Subdivision Map Act.

Preliminary Recommendation 5-7: Pursue policies and programs to address the issuance of COCs and CCOCs including the following:

- Preparation and use of a manual by the County and Commission that states what the applicable requirements were for subdivision for the period between 1850 and the present. Update annually.

- Train County and Commission staff to adequately analyze evidence given to support claims (interpret law applicable at the time parcel was created, interpret deeds, maps, follow legal descriptions of property and be familiar with various forms of property conveyance (Director's deeds, severances in eminent domain, etc.)

- Require written staff reports to be approved by the Planning Director that support the recommendation to issue a COC; such reports should be noticed to the Commission to allow for coordinated legal review and Commission comment, within the timeframes of the County's review process, prior to Director approval.
- Update Table O to define CCOCs as an appealable conditional-use (see Chapter 12, Procedures).

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ownership shall be aggregated to meet minimum parcel sizes ... This is particularly important for protection of prime agricultural land made up of holdings of small lots, that would not permit continued agricultural use if sold individually.

The South Coast Area Plan also includes a program where the County should "seek property owner's consent to revert to acreage parcels in contiguous ownership that are individually less than 40 acres." Review of parcel data shows a number of potential cases where lot mergers could result in conforming parcel sizes, or could bring existing parcel sizes significantly closer to the minimum parcel sizes in the LCP. In these cases, two or more agriculturally zoned lots lie adjacent to each other, and appear to be under one owner. Actively encouraging these lot mergers could help address concerns with some of the existing non-conforming lots, and could help protect agricultural resources in the county. Consideration of potential incentives for encouraging such mergers is needed.

C.3. Effect of Non-Agricultural Uses on Agricultural Lands

Non-agricultural uses on agricultural lands can affect the long-term viability of agriculture. While significant areas of agricultural lands in the coastal zone have not been converted to non-agricultural uses, such uses have been allowed. To ensure the future protection of agriculture, the LCP policies governing supplemental uses should be strengthened.

Overview: Discussions with local farmers in San Luis Obispo County indicate an increasing trend of non-agricultural land uses in agricultural areas in San Luis Obispo County. It is likely that demand for these supplemental uses (e.g., wine tasting rooms, event sites for weddings or concerts, bed and breakfasts, etc.) will continue to grow. While such uses may be allowable to provide additional income, if necessary, to help support the long-term agricultural use of lands, these non-agricultural uses can also lead to conflicts with other agricultural uses. Examples of these conflicts include increased traffic on roads, conflicting with agricultural activities and increasing damage to farms, and, where farming activities create noise and dust, conflicts with event activities. In conjunction with increasing residential uses in rural areas, the development of these non-agricultural uses can begin to alter the land uses of an area away from agriculture to a more residential or commercial environment that undermines the fundamental agricultural character of an area.

LCP Implementation: The LCP allows for non-agricultural uses on agricultural lands, when a continuation of agriculture is not feasible without some supplemental uses. Table "O" of the LCP governs what uses are allowed on agricultural lands in the coastal zone; these uses are summarized in Table 5-5, next page.

Several of the area plans further limit the supplemental uses allowed on agricultural lands. The San Luis Bay area plan limits uses on agricultural lands to: agricultural accessory structures; crop production and grazing; animal raising and keeping; soil dependent nursery specialties; farm support quarters; single family dwellings; mobile homes; temporary dwellings; roadside stands; temporary or seasonal retail sales; pipelines and power transmissions; and water wells and impoundments.

Several of the allowable uses under Table O have been added to the LCP through various amendments. Since original certification of the LUP in 1983, the Commission has approved amendments to allow the following uses on agricultural lands: "Eating and Drinking" and "B&B Facilities" on non-prime soils where there is an existing, conforming visitor serving use; greenhouses engaged in agricultural research; receiving and processing of green material (composting); and mining on non-prime agricultural lands in the North Coast and Estero areas (Amendments 1-96, 2-84). The Commission also denied an amendment to include non-soil dependent greenhouses as an allowable use on agricultural lands and denied mining as an allowable use in the San Luis Bay and South County areas (Amendment 1-84). The Commission found that mining would

conflict with the more intensive agricultural uses in the San Luis Bay area and the South County. In the northern part of the County, the Commission found that mining was limited to rock quarries and gravel mining, generally on land least desirable for agriculture, and would not conflict with the less intensive agricultural activities in the area.

Table 5-5: Allowed Uses on Agricultural Lands

Category of Use	Allowed on Prime Soil	Allowed on Non-Prime Soil
Principally Permitted	Crop production, grazing, coastal accessways	Crop production, grazing, coastal accessways
Allowed		Passive Recreation, Fisheries and Game Preserves, Forestry, and Storage units which support agricultural uses.
Special Uses (allowed only if special standards for each use are met)	Single family residence, caretaker residence, farm support housing, home occupation, mobile homes, temporary dwellings, residential accessory uses, water wells and impoundments, ag accessory structures; ag processing; soil dependent nursery specialties; specialized animal facilities; airfields and landing strips; pipelines and transmission lines; public utility facilities.	Single family residence, caretaker residence, farm support housing, home occupation, mobile homes, temporary dwellings, residential accessory uses, water wells and impoundments, ag accessory structures; ag processing; animal raising and keeping, aquaculture, farm equipment and supplies, soil and non-soil dependent nursery specialties; specialized animal facilities; communication facilities, rural recreation and camping, temporary events, electric generating plants, food and kindred products, paving material, recycling and collection centers public safety facilities, stone and cut stone products, waste disposal sites, , mining, petroleum extraction, eating and drinking places, outdoor retail, roadside stands, temporary construction yards, Bed and Breakfast facilities, temporary construction trailer parks, airfields and landing strips; pipelines and transmission lines; public utility facilities warehousing, wholesale and distribution.

The South County area plan limits uses on agricultural lands in the Nipomo and Oso Flaco Valleys to agricultural processing; agricultural accessory structures; crop production and grazing; animal raising and keeping; farm labor quarters; residential accessory uses; single family dwellings; mobile homes; temporary dwellings; roadside

stands; pipelines and power transmission; water wells and impoundments; and coastal accessways.

To authorize a supplemental use identified in Table O, the County must ensure that any non-agricultural development is "compatible with preserving a maximum amount of agricultural use" (Agriculture Policy 3). Priority is given to those commercial recreation and low-intensity visitor serving uses identified in Table O (Agriculture Policy 3; Ordinance 23.04.050 (b2)).

While Policy 3 states that "no development is permitted on prime land", the LCP also establishes criteria for cases when supplemental uses could be permitted on prime lands. To do so, it must be demonstrated that "all agriculturally unsuitable land on the parcel has been developed or has been determined to be undevelopable" (Policy 3 and Ordinance 23.04.050 (6)). If the County approves a supplemental use on prime soils, it must also find that no alternative project site exists and that the least amount of prime soils possible will be converted.

In addition, the LCP requires that the following criteria are met for permitting non-agricultural development on agricultural lands:

- economic studies of existing and potential agriculture which show that continued or renewed agricultural use is not feasible without the proposed supplemental use;
- the proposed use will allow for and support continued use of the site as a productive agricultural unit;
- will not adversely affect agricultural uses on the remainder of the site or surrounding properties;
- supplemental uses shall not exceed 2% of the gross site area; and
- the remainder of the parcel shall remain in agriculture. (Policy 3 and Ordinance 23.04.050 (6)).

When considering non-agricultural uses in rural areas a significant concern is the economic effect of these uses, and the resulting pressures that can erode the viability for agricultural practices. For example, in its 1998 discussion of potential visitor-serving development on North Coast grazing lands, the Commission expressed concern about conversion pressures created through the introduction of such non-agricultural uses:

> *Once in place, non-agricultural development will exert pressure on the surrounding land to convert to non-agricultural uses, as is typically the case for agricultural lands that are encroached upon by urban uses. Conflicts between urban and agricultural uses inevitably follow. . . . If the visitor-serving uses turn out to be profitable, the market value of the land adjacent to those uses may increase. Expansion of the visitor-serving*

> *uses (or different related facilities...) will then become more economically feasible.*[58]

The Commission has also been concerned over the impact of supplemental uses on agricultural lands in other jurisdictions of the coastal zone. In an appeal in Mendocino County, the Commission reviewed a project for a visitor-serving development on agricultural lands. The Commission noted that "allowing a visitor-serving facility ... may encourage other visitor-serving uses on the parcel or on other nearby agricultural parcels".[59]

Review of Local Permits: Review of County notices of final action shows that the County has approved an estimated 92 permits for non-agricultural development on agriculturally zoned land between 1988 and 1998.[60] A large number of the development approved was for residential uses. Between 1988 and 1998, the County approved approximately 54 new residences on agriculturally-zoned lands in the coastal zone.[61] All of these units were approved in either the North Coast (23) or Estero (31) planning areas.

Other development on agricultural lands includes commercial projects, public works facilities, road grading, and erosion control rip-rap projects. Again, most of these projects occurred in the North Coast and Estero Planning areas; the public works and commercial development projects approved in the North Coast and Estero planning areas are summarized in Table 5-6. There has been significantly less development on agricultural lands in the San Luis Bay and South County planning areas since 1988.

Table 5-6: Non-Agricultural Uses (non-residential) Authorized on Ag Lands

North Coast	Estero
7 Public Works (cellular transceiver unit; communication tower; wastewater plant modifications; desalinization plant; road realignment; bridge repair)	5 Public Works (bridge repair; water treatment plant; water distribution facility; road realignment)
6 Commercial (home business; horse stables; tent cabins; winery)	9 Commercial (stables, agricultural sales, shooting range, vet clinic, cellular transmission building; cellular antenna)
	Expansion of Aquaculture Facility

As noted above, both these area plans are more restrictive in what supplemental uses are allowed on agricultural lands. In San Luis Bay, development on agricultural lands has been limited to a residential structure and a bank stabilization project to control erosion;

[58] California Coastal Commission. Findings for LCPA (North Coast Area Plan Update). January, 1998. pg. 110.
[59] California Coastal Commission. Commission adopted revised findings for A-1-MEN-98-17 and A-1-MEN-98-17-A. Sept 9, 1998 and Oct. 16, 1998.
[60] This figure excludes all agricultural wells and accessory structures such as barns and storage sheds.
[61] This figure is limited to *new* residential units, and excludes expansions and/or remodels of existing units.

in the South County, most non-agricultural uses are for grading associated with containment areas for petroleum facility.[62]

All supplemental agricultural uses must meet the criteria established under Policy 3 and Ordinance 23.04.050(6) of the LCP. It is not evident from review of many of the local actions for both residential development and other non-agricultural development on agricultural lands the extent to which the County has considered whether the proposed development complies with the required criteria. In some cases, the County makes a general finding that the project is "consistent with the general plan". However, many County actions do not discuss the location of the proposed development, and do not specify whether the proposed development is located off of prime soils.

For most projects, the actions do not analyze whether the proposed development complies with the requirement that only 2% of an agricultural parcel be allocated to a non-agricultural supplemental use, whether the project will negatively impacts agricultural practices, and how the remaining parcel will be protected for agriculture.[63] These criteria are all necessary to ensure that agricultural resources are adequately protected.

While some of the approved projects may only tangentially affect agricultural lands or are necessary public works (e.g., the realignment of an existing road), many of the approved projects, particularly non-residential development projects, have the potential to remove land from agricultural production. Without an adequate analysis of whether, and how, the proposed project will affect the long-term viability of agriculture, it is unclear whether the County is adequately protecting agricultural lands. As noted in the Commission's findings on the North Coast Update, "the introduction of non-agricultural uses in an agricultural zone ... initiates new conflicts between incompatible uses that often set in motion of domino effect of conversion of surrounding agricultural lands".[64]

Review of the commercial projects approved on agricultural lands shows that generally they are on non-conforming parcels. As discussed previously, the smaller size of non-conforming parcels may make the economic viability of agriculture more difficult. However, increasing the non-agricultural uses of parcels may also affect the long-term viability of agriculture by further reducing the land available to farm and by increasing the pressure to convert adjacent agricultural parcels to other uses. To assure protection of agricultural lands, they County needs to ensure that supplemental use on a property will not detract from a basic agricultural use. The County findings generally do not discuss the need for the supplemental use, and how that use will support the long-term agricultural use of the property. This analysis is especially important for commercial and

[62] This information is based on the permits that can be mapped and overlaid with AG zoning, and is a rough estimate. For each area, there are a number of permits that cannot be mapped based on the APN, so the development may or may not be on agriculture lands. And the Flan gives no indication of zoning.
[63] e.g., FLANs 3-SLO-95-22, 3-SLO-94-98 (modifications to wastewater treatment plants); 3-SLO-96-147 (road realignment); 3-SLO-97-162 (expansion of pistol shooting range)
[64] California Coastal Commission findings. LCPA 1-97 (North Coast Area Plan Update). pg. 110.

residential estate development, which can convert the use from a primarily agricultural to primarily residential and commercial use. The County does not generally cite or refer to any economic studies done to support the need for the project as required under the LCP. Discussions with the County Agriculture Commissioner also indicate that agriculture viability reports are generally not done for these supplemental use projects.

For example, this issue of whether a supplemental use is appropriate was raised on an appeal to the Commission. In local permit D950222P, the County approved the use of an agricultural parcel for a temporary event site for weddings and other gatherings. On appeal of the project, (A-3-SLO-98-025), the Commission found that the proposed use did not meet the test for allowing a non-agricultural use on agricultural lands. Specifically, the Commission found that the temporary uses could affect agricultural operations on adjacent parcels through increased traffic and interference with agricultural machinery and livestock. However, the Commission's primary concern with the project was a lack of evidence to show that existing agricultural uses were infeasible without supplemental activities.

Another good example is provided by the approval of a winery and tasting room near Harmony on the North Coast. This project (3-SLO-92-072/D910086P) was approved for a 150 acre parcel used for grazing. Under the LCP, wineries are discussed under the category "Agricultural Processing," which is considered a specialized use under Table O. This project, though, also included a tasting room, and was characterized by the staff report as a visitor-serving facility more akin to a commercial use. Under Table O, food and beverage uses are also a special use, regulated by a separate ordinance. Thus, the LCP does not clearly specify how to treat a winery with a tasting room on agriculture lands, although the County has interpreted the ordinance as not allowing a wine tasting room on Agricultural land unless it is accessory to a winery (see 3-SLO-97-165). In addition, in 3-SLO-92-072, there is no discussion of the potential impact of the "visitor-serving" use on the existing agricultural use, or on future agricultural use. In 3-SLO-97-165, also in Harmony, a winery was approved as part of an existing single family dwelling, but only after the applicant modified the proposal to eliminate public wine tasting, due to a Caltrans requirement to improve Highway One. Again there was no analysis of the impacts of the project to surrounding agricultural uses, although in this case there was less of a concern given the size of the parcel (30 acres).[65]

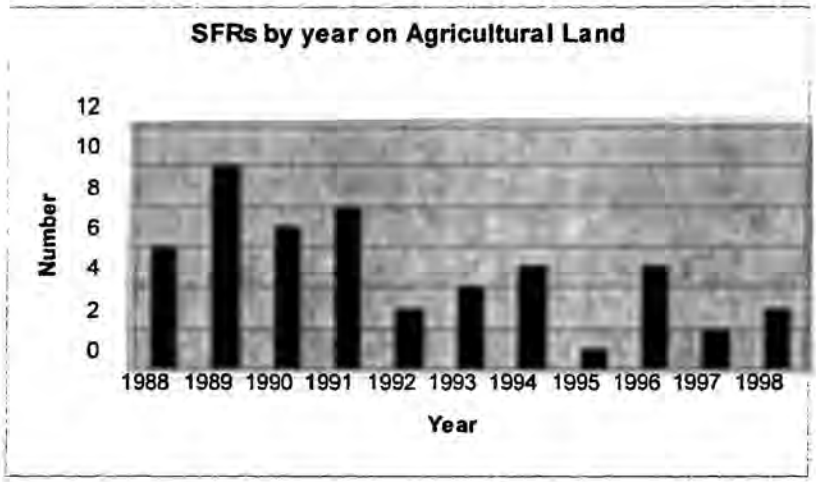
It should be noted that the Agriculture Policy 4 and Ordinance 23.04.050 (a) of the LCP also state that "any agricultural accessory buildings" shall not be located on prime soils, where feasible, and shall "incorporate mitigation measures necessary to reduce negative impacts on adjacent agricultural uses". The County has granted an estimated 40 permits for agricultural accessory buildings such as barns and storage facilities between 1988 and 1998. Review of a sample of these actions indicates that, similar to the findings for residential development, the County does not always identify in its findings whether the

[65] The parcel was actually created by a subdivision in the early 1970s. See discussion of Harmony cumulative impacts in Chapter 2.

structures are placed on prime agricultural lands, although this may be accounted for in the review process. Under Ordinance 23.04.050 (6), these agriculturally related uses are not included in the "2%" rule.

Rural Residential Development: As noted previously, of the actions reported by the County for non-agricultural development on agriculturally-zoned lands, many of the actions were for development of new residences. Lands zoned for Agriculture are allowed a primary single family residence, a caretaker unit, and farm support quarters under special conditions.[66] As shown in Figure 5-2, authorizations for such

Figure 5-2: SFRs by Year on Agricultural Land



residences on agricultural land have been fairly steady over the decade. A brief review of these actions show a variety of cases, many of which appear to be residences that may be being used principally as rural ranchettes; some are frequently larger "statement" homes – at least 15 of 54 the reported actions ranged between 3,000 and 7,500 square feet. Many are for accessory development as well, such as barns with studios, gazebos, guest houses, and swimming pools (e.g. 4-SLO-91-190). In addition, of these new residences, at least 22 (or roughly 46%) are on lots under 60 acres. There are also a number of these residences that are mobile homes, and do appear to qualify as development in support of agricultural uses. In some cases, the County has required relocation of structures to stay off of prime soils; and in at least one case, the project was conditioned to require that the mobile home only be occupied by someone engaged in bonafide agricultural uses on the property (3-SLO-92-162).

Nonetheless, there is growing concern in rural areas in the coastal zone as well as other parts of California and even other western states with residential "ranchette" development. Such development on agricultural parcels , particularly non-conforming

[66] CZLUO 23.08.167 and Table O.

parcels that potentially further fragment agricultural land holdings, contribute to changing the character of rural agricultural lands to more rural residential development.[67] The potential development associated with the Morro Bay Limited case discussed earlier is a good example of this trend. As discussed in Chapter 2, the cumulative transformation of the agricultural coastline can be subtle and unfold over many years. Yet the change in character of the landscape can be dramatic, ultimately leading to the de facto conversion of agricultural lands to residential uses without serious agricultural undertakings associated with them.

Non-agricultural residences can often be larger and with greater site coverage, and the site may no longer be in active agricultural use, though it might remain in open space. If not used as primary residences accessory to the agricultural use, the residents may travel to employment elsewhere, thus contributing additional travel trips on rural roads. They may even propose using a helicopter to access more remote sites, raising a variety of issues for preservation of rural character (see, e.g., Hinman, A-3-SCO-00-033, recently approved in rural Northern Santa Cruz County). While approval of individual single family residences on 20 and 40 acre agricultural parcels may individually not convert agricultural lands, (assuming that agriculture is maintained on in conjunction with these uses) cumulatively over time, as more parcels are developed with residential uses not accessory to the agricultural use, it may create a greater pressure for rezoning for rural residential subdivision. Even without such rezoning, the use of such land for bonafide agricultural pursuits becomes increasingly unlikely.

The County's current LCP provides measures intended to discourage this type of outcome, including siting restrictions and requirements for agricultural easements over remaining parcel areas. Review of these 54 residences, though, indicates that such measures are not implemented in all cases. Protection of agricultural lands from the effects of such rural residential development is difficult. In addition to implementing the existing ordinance measures, the County could consider additional programs to encourage merger of smaller agricultural parcels to provide more viable agricultural parcel sizes. In addition, higher standards for residential development that is not associated with on-going bonafide agricultural activities, as compared to legitimate farm worker/caretaker housing, could be incorporated into the LCP.

Consistency Analysis: The County's actions implementing the LCP have not resulted in large areas of agricultural lands converted to non-agricultural uses. However, increased residential development may be adding incremental pressure in agricultural areas, ultimately leading to potential long-term loss of agriculture. The Coastal Act allows conversion of agricultural lands if on-going agricultural use is no longer feasible. In approving the supplemental and non-agricultural uses on agricultural lands, though, the County has not fully implemented sufficient measures to determine that the land is not viable for on-going agricultural activities.

[67] McCormick, Kathleen, *Home, Home on the Ranchette*, in Planning, American Planning Association, February 1998, page 4-8

As noted above, on appeal of a recent project, the Commission found that in approving non-agricultural uses on agricultural lands, the County had not adequately protected future agricultural practices. The Commission also found the proposed supplemental uses in Amendment 1-97 (North Coast Update) would convert viable agricultural land to non-agricultural uses. These actions illustrate that expanding allowable supplemental uses on agricultural lands without more thorough analysis of effects on agricultural viability may not adequately protect agricultural lands as required by Sections 30241 and 30242 of the Coastal Act.

Preliminary Policy Alternatives: As discussed above, Policy 3 and Ordinance 23.04.050(6) establish the criteria by which supplemental uses can be authorized on agricultural lands. A more consistent and rigorous application of these criteria by the County would improve the protection of agricultural lands and prevent unnecessary conversion to other uses. The Commission recognizes, though, that not all criteria may need to be met for all supplemental uses. For example, authorization of a single family residence on an agricultural parcel should not require an economic study, but should comply with the other criteria specified in the LCP. One option may be to modify the uses allowed by Table O and Policy 3 to clarify that only priority supplemental uses such as commercial recreation and low intensity visitor-serving, are allowed, subject to viability studies (Residential typically would not be analyzed as supplemental use necessary to support agriculture).

Efforts by the County to continue to expand the use of Williamson Act contracts as discussed earlier could also discourage need for supplemental uses. In its recent update for the North Coast Area plan, the County proposed to limit uses allowed on agricultural lands in the Ragged Point area (proposed standard 2 in rural areas). The proposed policy restricts uses on lands northwards from Hearst Ranch to "actual agricultural and public benefit uses", with the exception of allowing residential uses and bed and breakfast facilities on non-prime soils.[68] Although the term "public benefits" may need to be clarified, this is a positive proposed restriction of uses.

In its proposed update for the Estero planning area, the County proposes several policies that directly and indirectly address the issue of supplemental uses on agricultural lands. The proposed policies are:

> *Provide incentives for landowners to maintain in productive agricultural use.*
>
> *Prevent further urban or suburban development, especially in areas of existing small rural lots.*

For Los Osos Valley, the update also includes the following policies:

[68] San Luis Obispo County Department of Planning and Building. *North Coast Area Plan Update.* January, 2000. pg. 7-27.

> *Support creation of a greenbelt adjacent to the urban reserve line to clearly define the urban edge of Los Osos, prevent urban sprawl, discourage conversion of agricultural land, and protect unique and sensitive habitat.*
>
> *Promote uses such as high value crop and animal specialties on existing small parcels to help maintain the agricultural integrity of the area.*

The update also includes a policy supporting a greenbelt around Cayucos, in part to maintain agricultural resources. Finally, the proposed update modifies agricultural standard 1, stating that new development is to concentrate residential and agricultural structures "off of productive agricultural lands, unless there is no feasible alternative".[69]

Other options to consider include:

Preliminary Recommendation 5-8: Developing LCP standards for large residential developments on Agricultural Land. For example, consider limiting the size of single family homes in agricultural districts to a maximum of 3,500 sq. ft. total; and limiting development envelopes to 5,000 square feet.

Preliminary Recommendation 5-9: Evaluate Table O for revisions to address non-agricultural uses. Table O should be reevaluated to clarify conditional uses on agricultural land. For example, consider defining residences that are not developed in direct support of bonafide agricultural operation to be a conditional use. Require agricultural protection easements on the parcel in conjunction with residential development.

C.4. Addressing Impacts from Intensification of Agricultural Uses.

Overview: Addressing the environmental impacts from intensification of agricultural uses is another emerging issue in San Luis Obispo County. As noted in the background section to this chapter, the County has seen an increase in the production of water-intensive crops since the mid 1980s. The growth in vineyards is also raising concern, particularly when it involves the conversion of grazing lands to this more intensive use. Estimates of the growth of acres in vineyards throughout the County range from 72% to a doubling in the past decade.[70] Another estimate notes that approximately 2,000 acres of rangeland in the County is converted per year.[71] While these figures are county-wide and

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[69] San Luis Obispo County Department of Planning and Building. *Estero Area Plan, Public Hearing Draft.* February, 1999. pg. 7-39.
[70] Paso Robles Vintners and Growers Association. www.pasowine.com/vitals/economic.html; Sneed, David. *A Crush on the Environment* in The San Luis Obispo Tribune. May 21, 2000.
[71] Brooks, Colin, Emily Ehaton, David Newburn, Adina Merenlender. *Modeling Vineyard Expansion in California's North Coast: Developing Statistical Models and Evaluating Consequences for the*

not specific to the coastal zone, they illustrate an important trend in agriculture that may increase in the coastal zone in the future, and that should be anticipated by the LCP planning process.

From a Coastal Act perspective, agricultural uses and changes in these uses that intensify the use of the land can have significant impacts on sensitive resources if not managed appropriately. For example, the impacts of cattle grazing on the diversity and quality of native landscapes is well documented and on-going matter of debate on public lands across the western U.S. Grazing can reduce the diversity and amount of natural vegetation available to support native animal species. Large mammals such as deer and mountain lions may withdraw from areas claimed for grazing. As discussed in Chapter 3, other impacts from grazing include soil erosion and water quality concerns.

The replacement of native lands or grazing lands with more intensive agricultural uses such as vineyards or truck farms may exacerbate impacts, by further reducing the natural ecological diversity of the land committed to these uses. A well-managed vineyard or lettuce field does not look or function like the natural environment that it replaces. There may be little to no habitat value to these lands. Activities such as vineyards or other intensive crop cultivation can also lead to significant landform alternation, including dramatic impacts on the scenic character of previously grazed hillsides, or native oak woodlands.

The recent growth of vineyards in other coastal counties, including Sonoma and Santa Barbara, illustrate some of the potential concerns. In Santa Barbara County, the extent of vineyards doubled since 1996, resulting in a corresponding loss of over 2,000 oak trees. In Sonoma County, an estimated 1,660 acres of oak woodland was lost to vineyard development between 1990-1997.[72] This loss of oak woodlands is also evident in San Luis Obispo County.[73] The development of vineyards also leads to habitat fragmentation and a loss of wildlife corridors, particularly through the use of fencing that precludes animal movement. A related issue to the loss of habitat is the direct legal and illegal killing of animals seen as a nuisance in the vineyards.[74]

As discussed in Chapter 3 (Water Quality), other major impacts can occur to water quality from agricultural development. Landform alteration, and a loss of vegetation, increases the potential for erosion, particularly in hilly areas, and can change storm runoff patterns. For example, the change in agricultural land use from grazing on native vegetation or non irrigated crops to irrigated crops such as vineyards can also lead to

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Surrounding Oak Woodland Landscape. 1999. From IHRMP North Coast Research and Extension Group web site: http://hoplandrec-001.ucnet.net/publications.htm.
[72] *Ibid.*
[73] Sneed, David. *A Crush on the Environment* in The San Luis Obispo Tribune. May 21, 2000.
[74] *Ibid.*

water quality degradation from the use of fertilizers, fumigants, and pesticides.[75] One of the most dramatic changes that the Commission has observed in this regard is the change in crops in the Elkhorn Slough watershed in Monterey County, where the conversion of hillside orchards to more intensive strawberry farming has dramatically changed sedimentation and erosion patterns. Other agricultural land uses, such as intensified animal grazing, can create other types of serious water quality concerns, such as the recent Biotech case in Santa Cruz County, where hundreds of confined goats were leading to extremely high fecal coliform counts in adjacent water bodies. Finally, in addition to the issues discussed earlier, the establishment of commercial uses such as wineries and other food processing facilities adds additional environmental concerns through increased traffic, energy use, waste products, and other related impacts.

Changes in the intensity of agricultural land uses can also lead to increased use of water if the use of agricultural land intensifies through irrigation. As discussed in Chapter 2 (New Development), most of the water in San Luis Obispo County originates from groundwater aquifers or coastal streams. Inasmuch as a number of groundwater basins in the coastal zone are at or near overdraft, an increase in agricultural withdrawals can further impact the integrity of an aquifer. Excessive water withdrawals from coastal streams will have significant environmental effects, including impacting riparian habitat and altering stream flows, thereby potentially affecting anadromous fish.

LCP Implementation: As discussed in Chapter 3 (Water Quality), agricultural developments can have significant impacts on coastal resources, particularly when land uses intensify or dramatically alter the landscape. Non-agricultural uses on agricultural lands, such as retail sales and wine tasting rooms, can also have significant impacts (see Section C.3). In recognition of this, the LCP contains a variety of standards to address specialized agricultural uses other than crop production, such as processing facilities, beef and dairy feedlots, and farm equipment and supplies sales. Chapter 3 discusses the water quality concerns raised by some of these types of development.

The LCP also currently contains a limited exemption for certain types of agricultural development from the requirement for a coastal development permit.. Ordinance 23.03.040(d)(9) exempts "crop production and grazing" where these uses are an allowable use under Table O of the LCP, unless more than one-half acre of native vegetation is proposed to be mechanically removed. Also directly relevant are sub-sections (d)(3), which exempts open wire fences in the Agriculture or Rural Lands categories; and (d)(5), which exempts the installation of irrigation lines from permit requirements. The County's current grading ordinance also exempts "agricultural cultivation activities" such as preparation of land for cultivation (23.05.026(d)). Similarly, Ordinance 23.05.062, which requires a coastal development permit for tree

[75] Tom Chorneau. *Environmental Effects: Opponents Fear Loss of County's Natural Habitat.* In The Press Democrat. November 2, 1999; Eco-Rating International. Eco-survey of California Vineyards and Wineries. www.eco-rating.com/sces.html

removal, exempts such removal done in preparation for agricultural cultivation and crop production (23.05.062(b)(4)).

The LCP regulates water wells and impoundments. Most generally, Coastal Watershed Policy 1 requires protection of groundwater basins in the coastal zone:

> *The long-term integrity of groundwater basins with the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted.*

More specifically, Watershed Policy 2 requires that all water extractions, impoundments, and other water resource developments obtain all necessary permits and that information about these developments be incorporated into the County's Resource Management System (See Chapter 2 for detail). Policy 3 requires applicants for water extraction developments to install monitoring devices and participate in a water monitoring management program in basins where extractions are overdrafting groundwater basins. As discussed in Chapter 2, groundwater basins for San Simeon and Santa Rosa Creeks would fall into this category, as might the Los Osos groundwater basin.[76]

In terms of LCP Ordinances, Section 23.08.178 requires a coastal development permit for "water wells and surface water impoundments, including constructed ponds, lakes or reservoirs." Since 1988 the County has processed a number of new water wells for agricultural purposes. In addition, Ordinance 23.07.174 addresses impacts from development on streams and riparian vegetation. Consistent with Coastal Act 30240, this ordinance requires that development be sited and designed to protect habitat, as well as be compatible with the continuance of the habitat (23.07.174(a). Streambed alterations are also limited, as are stream diversion structures, such as those that might be developed for agricultural uses. Ordinance 23.07.174(c) states:

> *Structures that divert all or a portion of streamflow for any purpose, except for agricultural stock ponds with a capacity less than 10 acre-feet, shall be designed and located to not impede the movement of native fish or to reduce streamflow to a level that would significantly affect the production of fish and other stream organisms.*

Ordinance 23.07.174(e) also allows for alteration of riparian vegetation to increase agricultural acreage, provided that such clearance would not impair the functional capacity of the habitat, cause significant erosion, have a detrimental impact on water quality or quantity, and be in compliance with Department of Fish and Game requirements.

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[76] Policies 4 and 5 address the need for groundwater management programs in the Chorro and Morro creek basins, and the Los Osos groundwater basin.

As discussed earlier in this chapter, data suggests a general trend in the County towards more water-intensive crops. Nursery products have expanded since 1988, as have avocados, lemons, and oranges.[77] The growth in citrus crops is particularly evident in the coastal zone due to the climate needs for these crops. Since all these products are water-intensive, their growth raises concerns about the impacts of increased water withdrawals on groundwater basins and riparian habitats. Review of County data shows an estimated 67 wells approved for agricultural purposes.[78] Most of the wells are located in the Estero planning region (approximately 39). The impacts of these new water withdrawals, though, are not readily determined from the County permit actions reported to the Commission. Presumably there has been some increase in water use since 1988, and the extent of water used for agricultural practices is clearly a concern, particularly in areas where the coastal creeks may be overdrafted.

Because agricultural development is not managed as closely or regularly as urban or other non-agricultural development, it is sometimes difficult to know what impacts to coastal resources may or may not be occurring. As discussed in the Water Quality chapter, there is a need, therefore, to develop programs in cooperation with the agricultural community, and other agencies such as the NRCS, to better address agricultural development impacts. For example, sediment retention basins or riparian buffers may be easily implemented, without significant impacts to agricultural productivity, but there are few regulatory mechanisms to pursue such management measures.

There is also a need to look closely at the types of agricultural exemptions to coastal permitting requirements because some of the exempt development can result in serious impacts. Thus, as discussed in Chapter 3, although some permits have been issued for the construction of agriculturally-related structures such as roads and barns, most agricultural use changes have not triggered a grading permit or coastal development permit, and thus the potential impacts of such activities are not being analyzed or managed. A recent case in the Morro Bay watershed illustrates this concern (Kandarian).[79] Along Los Osos Valley road a parcel in row crops was significantly altered through grading, and riparian/wetland areas were proposed for filling but ultimately this was averted. Prior to grading, the natural landform of the parcel consisted of rolling hills, with numerous drainages traversing down the hillsides, eventually flowing into Los Osos Creek and into the Morro Bay Estuary. Following an industrial agricultural model, the parcel was laser-leveled to facilitate more intensive cultivation. This grading was done without coastal development permits pursuant to the LCP's grading exemption.

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[77] Robert Hopkins. San Luis Obispo County Agriculture Commissioner. Pers. comm. 5/5/00.
[78] Figure is calculated from FLANs received by the Commission, and mapped onto agriculturally zoned lands. While the figure includes wells approved for agricultural purposes, and for agriculture/domestic uses, it excludes approvals for wells for domestic use only.
[79] Because no coastal permits were ever issued for the activities described, there is no permit number for citation. Administrative records are on file with the Central Coast District Office of the Commission.

Commission staff became aware of the Kandarian project when U.S. Army Corps of Engineer permit requirements were triggered by the property owner's desire to fill in portions of an existing drainage that separated two fields and to address a flooding problem associated with previous filling in of a natural drainage. The Corps determined that some areas were waters of the U.S. and notified the Commission's Federal Consistency program of the requested activity. At this point, Commission staff worked with the County staff, expressing concern that a coastal development permit also would be needed for the proposed work, and that filling of wetlands and riparian was not appropriate to expand and connect up two agricultural fields. County staff concurred and worked with the property owner to withdraw the proposal and pursue another alternative that would not require wetland fill.

The project illustrates the impacts that can occur to natural landforms and coastal watershed resources through the use of exemptions for agricultural development. The site is located in a highly scenic corridor of the Estero Area, and significant landform alteration was completed, altering this viewshed. Fortunately, potential impacts to riparian and wetland resources were averted, through close County and Commission staff coordination. Nonetheless, the case points out the need to consider LCP improvements that will better address the resource impacts from agricultural development that significantly change intensity of land use, consistent with the Coastal Act definition of development in Section 30106 of the Act.

Consistency Analysis: If intensification of land uses and landform alteration through change in agricultural uses is exempt from permit review, the County will not be able to assure that such land use change is consistent with the resource protection policies of the LCP and the Coastal Act. In previous actions statewide, the Commission has noted the concern of increased water use due to the intensification of land use through vineyards and winery operations. As a result, the Commission required future permit review for additional water wells or other withdrawals from adjacent creeks to assure that increased withdrawals would not negatively affect the riparian habitat or anadromous fish in the creek. The Commission also noted the increased environmental impacts from agricultural spraying and increased waste discharges from the commercial winery.[80]

The SLO LCP currently has policies and ordinances to address potential adverse impacts to groundwater and riparian habitat, but they appear to be underutilized by the County. Similarly, exemptions for grading, particularly when land uses are changing to more intense uses, as well as exemptions for stream diversions for stock ponds of less than 10 acre-feet or less on the North Coast, mean that resource impacts are not being addressed. While the Coastal Act protects agricultural lands, it also requires that other environmental resources such as water quality and habitat be protected, and requires that landform alteration be minimized. Without adequate review of agricultural practices, protection of these resources cannot be assured. In addition, there is concern that the intensification of agricultural land uses, including expansion of infrastructure services, may ultimately lead

[80] Commission findings for coastal development permit 1-88-19. May 10, 1988.

to the conversion of these lands to non-agricultural uses. Likewise, achieving other Coastal Act objectives, including water quality protection, preserving scenic views and EHSA's, and preventing depletion of groundwater, are being jeopardized.

Preliminary Policy Alternatives: The impacts from a change to and intensification of agricultural land use are a concern facing other coastal counties in California. These jurisdictions have implemented a variety of measures to increase avoidance and mitigation of impacts. For example, several coastal counties have implemented ordinances to address vineyard development. In Sonoma County, vineyards are prohibited on slopes greater than 50% and erosion control plans are required for vineyards on slopes greater than 10%. In addition, the ordinance prohibits vines within 50 feet of streams. A Napa County ordinance prohibits vineyards on slopes greater than 50%, and requires an erosion control plan for vineyards on slopes greater than 5%.[81]

To address some of the current and potential environmental concerns resulting from intensification of agricultural uses, the County should take steps to strengthen its ability, consistent with statutory limitations, to require review under the LCP for certain agricultural use changes, and should work with the vintners associations, farmers, and NRCS/CSD to develop guidelines and programs that address the issues discussed above. In addition to alternatives discussed in the Water Quality chapter, possible policy options include:

Preliminary Recommendation 5-10: Amend Permit Review Process for Agricultural Development. Amend the LCP to require Permit review if intensification of agricultural land use results in any of the following: (1) substantial grading, native vegetation removal, or significant landform alteration that impacts sensitive resources; (2) agricultural uses within 100 feet of coastal streams or waters (as discussed in Chapter 3); (3) an increase in water needs; or (4) alteration of environmentally sensitive habitat or new development immediately adjacent to habitat. Some of these revisions may be authorized under general planning law rather than the Coastal Act.

Preliminary Recommendation 5-11: Enhance LCP standards to Avoid/Mitigate Agricultural Development Impacts. In conjunction with permit review for changes in intensity of the use of agricultural lands, the following standards should be incorporated into ordinances to improve protection of coastal resources: (1) limiting new or expanded crop production to slopes of less than 30%; (2) incorporating erosion control measures; (3) incorporating cover crops into vineyards and hedgerows, which increase the habitat and reduce erosion potential[82]; (4) maintaining oak trees and protecting ESHA, and planting vines away from oaks; (5) reducing the use of fumigants, pesticides, and fertilizers; and (6) assuring wildlife travel corridors through limitations on fencing or other mechanisms. These revisions may be authorized under a combination of general planning law and the Coastal Act.

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[81] *Staking Out Regulations* in The Press Democrat. 1998.
[82] Railey, Raven. *Vintners and Growers Reaching Out* in The Tribune. December 8, 2000.

Preliminary Recommendation 5-12: Strengthen Implementation of Existing LCP Water Management Requirements. Existing LCP policies that require protection of groundwater basins, protection of riparian habitat, and monitoring of water withdrawals are underutilized by the County. Enhancing management of groundwater, including coordinated management between urban and agricultural users and monitoring of groundwater withdrawals, should be pursued.

Preliminary Recommendation 5-13: Protection of Rural Grazing Landscapes Potential conversion of rural grazing landscapes to intensive crop production that would impact scenic vistas, alter watersheds, and adversely impact habitat values should be minimized. Alternative LCP policies and standards to address this potential land use change should be developed and adopted. This could include a requirement for a coastal development permit where grazing land would be converted to a different agricultural use that involves intensified water use, landform alteration, or other activity that falls within the Coastal Act/LCP definition of development.

CHAPTER 6: PUBLIC ACCESS AND RECREATION

A. Policy Framework

The Coastal Act requires that maximum public access opportunities be provided, consistent with public safety and the need to protect private property owners' rights and natural resource areas from overuse. The Act further requires that development not interfere with the public's right of access to the sea. The provision of public access, however, is to take into account whether or not adequate public access exists nearby, or if agriculture would be adversely affected. With regard to Local Coastal Program requirements, the Coastal Act provides that each LCP shall contain a specific public access component.

To implement the Coastal Act, the San Luis Obispo County LCP requires the protection of existing access and requires that new development provide maximum public access to and along the shoreline, consistent with public safety needs and the rights of private property owners. To carry out this policy, the LCP requires accessways be established at the time of development where prescriptive rights may exist, and specifies how to acquire, measure, and establish accessways. It requires that support facilities and improvements shall be provided and states that a uniform signing system program should be developed. The LCP also addresses impacts of public access on agriculture and sensitive habitats and states that in some cases, access may be limited and controlled. In each of the area plans, accessways are mapped and differentiated between type of accessway (vertical, lateral, viewpoint, etc.) and status (proposed, open, etc.).

B. Background

The San Luis Obispo County coastline offers tremendous opportunities for public access and recreation for residents and visitors alike. Quaint towns such as Cambria and Morro Bay are a distinct appeal of the County, but the coastline also offers a variety of stunning physical topography, from the rugged Big Sur coastline to wide sandy beaches to idyllic farmland and grazing lands. Residents and visitors are drawn to the coast for a wide range of access and recreation activities, including camping, hiking, nature viewing and boating. According to the California Division of Tourism, beach and waterfront activities are second in popularity only to general touring and sightseeing for visitors to California.[1]

A significant portion of San Luis Obispo County's economy stems from its status as a tourist destination. In 1997, travel expenditures in the County were $856 million.[2] According to the 1998 Economic Outlook for San Luis Obispo County as detailed by the UCSB Economic

[1] California Travel Impacts by County, 1992-1998 prepared by Dean Runyan Associates, for the California Division of Tourism. March, 2000, from *http://gocalif.ca.gov/research/county.html.*

[2] Ibid.

Forecast Project,[3] the County as a whole attracted over 5.3 million visitors in 1997, including 4.5 million overnight visitors.

Along the 96-mile shoreline of San Luis Obispo County, there are 10 state parks and a number of smaller local parks providing access to the coast. Public parklands provide both vertical and lateral coastal access. (See Maps 6-A through 6-D for locations of public parks and other coastal accessways.)

Within the County, the state owns more than 14,500 acres of coastal parklands, which are designated as parks, beaches, historical monuments, vehicular recreation areas, reserves, or preserves.[4] The ten State Park units range from Montana de Oro State Park's 7,828 acres with over 21 miles of bay and ocean frontage to the relatively small 15 acres of Cayucos State Beach. In addition to these state parks, there are several smaller parks and natural areas maintained by San Luis Obispo County. These include such sites as Oceano Memorial Park, Elfin Forest Natural Area, and Lampton Cliffs Park. Six of the 10 State Parks[5] and one county park[6] in coastal San Luis Obispo County provide overnight camping opportunities. In San Luis Obispo County public parks account for 30 miles of available public lateral access, close to one-third of the 96-mile shoreline. Since LCP certification, an additional 275 acres of land known as the Estero Bluffs has been acquired for public use; ownership of the property is currently being transferred to the California Department of Parks and Recreation. In Cambria, the shorefront 407-acre East-West Ranch also has been acquired for public use.

In addition to the parks, there are other types of smaller coastal accessways, principally access easements acquired through Offers to Dedicate Public Access (OTDs).[7] As discussed in more detail in Section C.1, OTDs are a primary tool used to mitigate for new development in the coastal zone. Including OTDs required by the Commission prior to LCP certification, there have been 193 lateral and 12 vertical OTDs required along the San Luis Obispo coastline. As discussed below, planning for the opening and management of these potential accessways is critical task for the County and the Commission in the on-going effort to maximize public access to the coast.

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[3] http://ucsbuxa.ucsb.edu/efp.

[4] Parks and Recreation Element, Public Review Draft, SLO County Dept. of Planning and Building, August 1996.

[5] San Simeon State Beach, Morro Strand State Beach, Morro Bay State Park, Montana de Oro State Park, Pismo State Beach, Oceano Dunes State Vehicular Recreation Area.

[6] Oceano Memorial County Park.

[7] OTDs are recorded legal documents which offer easement interests in private land to a government agency or nonprofit organization. The interest offered runs with the land, meaning that subsequent owners of the parcel are legally bound to the recorded "offer" to provide for future public access. Typically the offers expire 21 years after the recording date if they have not been accepted by a managing agency. Once an OTD has been accepted, the accepting entity becomes the holder of the easement, which then remains in the public domain. Access OTDs can be of three types: vertical, lateral and trail. Generally, areas lying below the Mean High Tide Line (MHTL) are always in public ownership and may be accessed any time by the public. However, in many cases the dry sandy beach landward of the MHTL is privately owned, and as such, is not available to the public.

C. Preliminary LCP Implementation Issues

C.1. Maximizing Public Access Through New Development.

Overview: The Coastal Act and the LCP require that maximum public access to the California shoreline be provided. One of the primary ways that public access is provided is through the regulatory program via mitigation requirements for new coastal development that impacts access to the beach. Typically this mitigation has taken the form of Offers to Dedicate (OTD) access to and along the shoreline. To be effective, though, OTDs must be located to provide practical physical access opportunities. They must also be accepted by a public or other non-profit agency willing to take on the management responsibilities of these potential accessways. Providing maximum public access also requires systematic and comprehensive planning both to protect future public access opportunities, such as identifying optimum trail locations, and to provide the planning and resource rationale for requiring new development to provide public access.

LCP Implementation: Access Policy 2 of the LCP requires that vertical and lateral access be provided in new development. Exceptions are allowed in cases where 1) access is inconsistent with public safety, military security needs, or protection of fragile resources; 2) adequate access exists nearby; or 3) agriculture would be adversely affected. The LCP defines "adequate access" where vertical access exists within one-quarter mile in urban areas, and one mile in rural areas. These requirements are implemented through LCP Ordinance 23.04.420.

The Area Plans also have additional policies related to lateral and vertical access. For the North Coast, the area plan requires that public access be provided for each phase of any future development at Hearst Ranch, specifically at San Simeon Village, San Simeon Point, San Carpoforo, and Arroyo de la Cruz lagoon. Access is required at East-West Ranch (now under public ownership) and San Simeon Acres as a condition of new development. Under the Estero Area Plan, lateral access is required for new development between the first public road and the sea within the Cayucos Urban Reserve Line and in the GSA combining designation. Access is also required in new development at Cuesta Inlet. The San Luis Bay Area Plan requires that new development at Mallagh Landing incorporate means to ensure that public access will be permitted on a permanent basis, with a minimum requirement being a means to ensure public use of the sandy beach and a blufftop area for parking. At Port San Luis the plan requires that new development provide public access along the landfill and the sandy beach adjacent to the landfill which extends to Avila State Beach.

Offers to Dedicate Public Access
Since certification of the LCP in 1988, the County has approved approximately 190 permits for shorefront development. While some of these permits were for expansions of existing development, the majority of them were for new residential and commercial development. This growth – and the growth throughout the coastal zone and County – has increased the demand for, and use of, existing access and recreation areas.

Prior to LCP certification, the Coastal Commission had required 141 OTDs to be recorded in San Luis Obispo County. In 1986, San Luis Obispo County accepted 63 lateral and 2 vertical

Prior to LCP certification, the Coastal Commission had required 141 OTDs to be recorded in San Luis Obispo County. In 1986, San Luis Obispo County accepted 63 lateral and 2 vertical OTDs.[8] Then, in 1996, the County accepted an additional 57 lateral and 2 vertical OTDs (see Table 6-1). These actions by the County in these two years account for the greatest number of

acceptances; however, the County has accepted a smaller number of OTDs at other times since certification. Based on a review of the Commission's Public Access database and a list provided by the County, only four Commission-required OTDs remain unaccepted. San Luis Obispo County was the first coastal county in California to reach almost 100% acceptance of outstanding OTDs (other counties include Santa Barbara and San Mateo as well as the City of Pismo Beach and San Diego). Due to these exemplary actions, public access to the shoreline has been permanently protected and/or will be enhanced at these locations. Recently the County's Park and Recreation Commission has undertaken development of a coastal accessway plan detailing where vertical access is necessary to guide future acceptance of additional vertical accessways.[9]

Table 6-1: Status of Commission-Required OTDs in San Luis Obispo County[10]

	Recorded and Unaccepted	Accepted	Total
Vertica	2	5	7
Lateral	4	129	133
Other	0	1	1
Total	**6**	**135**	**141**

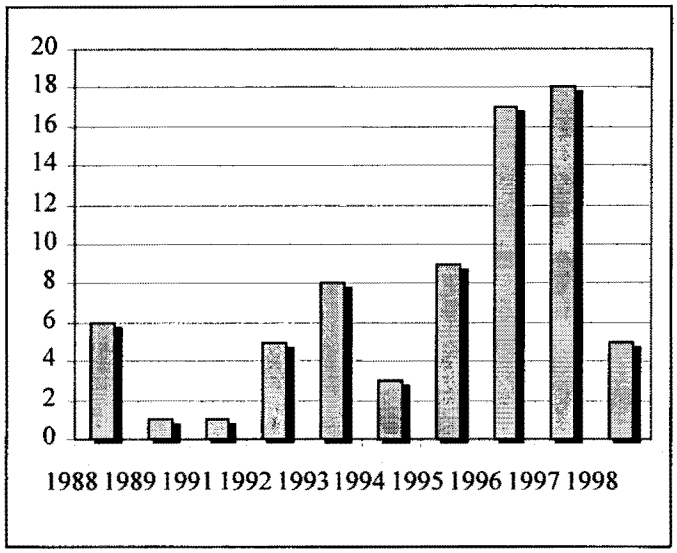
Since LCP certification, the County also has generally required access mitigation for new development along the shoreline, or has made findings that adequate access already exists, as required under the LCP. In an estimated 37%, or 71 of 190 cases where the County has authorized development along the shoreline, the County has required access mitigation through easement dedications or OTDs (see Figure 6-1).

Through these actions, the County required 60 lateral OTDs, and 5 vertical OTDs. For inland development five trail OTDs were required . However, of the 71 OTDs required by the County, ten appear to be duplicative; that is, they are on parcels which already had OTDs recorded *prior* to certification of the LCP through the Coastal Commission's permit process. Eleven of the 71 OTDs appear to have been recorded, and in another 17 the recordation process has been initialized, but the final recordation status remains unknown. For the remaining 33 OTDs required by the County, the Coastal Commission has no evidence that the recordation process has begun. Like the OTDs required by the Commission prior to LCP certification, these

[8] An OTD may consist of a vertical and a lateral offer; thus the numbers for OTDs recorded may not add up precisely.
[9] Draft Coastal Accessway Plan Workscope, San Luis Obispo County Parks Dept., July 2000.
[10] Numbers based on a combination of Access Inventory Database, CCC, May 24, 2000, and a list of OTDs provided by Jan DiLeo, Dept. of General Services, SLO County. The status of County OTDs has not yet been determined.

requirements may significantly increase the potential public access opportunities in the County once recorded, accepted and opened for use.

Figure 6-1: Access OTDs Required by San Luis Obispo County by Year



As shown below in Table 6-2, the vast majority of the OTDs required by the County through its coastal development permitting were in the urban areas of Cambria, Cayucos, and Los Osos. This table, and Figure 6-2, next page, also show that the type of project most often associated with OTD or access easements was new or expanded residential development (58%). Shoreline or bluff protection projects were also likely to have a public access requirement, making up approximately 18% of the projects with such conditions. More detailed discussion of these projects is provided in Chapter 7 (Coastal Hazards).

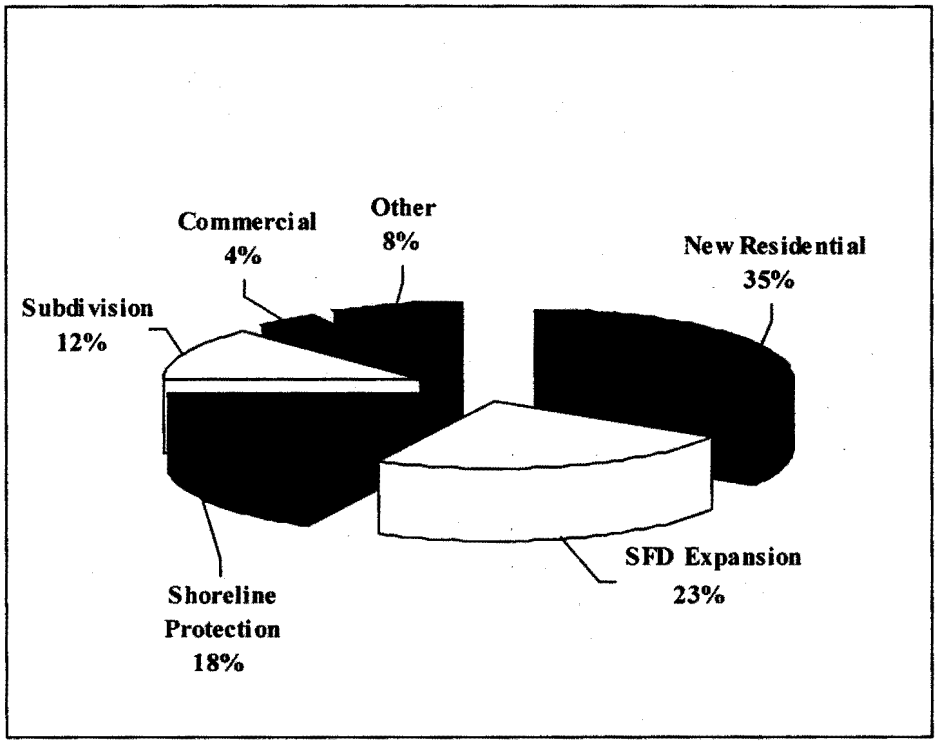
Table 6-2. Development Type and Location of OTD/Easement Requirements

Development Type	*Cambria*	*Cayucos*	*Los Osos*	*Rural Areas*	*Other*	*TOTALS*
New Residential	10	8	2	3	2	**25**
SFD Expansion		11	5	1		**17**
Shoreline/Bluff Protection	5	7			1	**13**
Subdivision	2	2	4			**8**
Commercial	1	1	1			**3**
Other	2	1		3	1	**7**
TOTALS	**20**	**30**	**12**	**7**	**4**	**73**

Although many of the accepted OTDs are located on sandy, accessible beaches, and thus are available for public use, there is not yet a comprehensive inventory of the location and status of all of the OTDs required by the Commission and the County in San Luis Obispo. As discussed later in this chapter, there is a need, therefore, for the County and the Commission to share

In many projects, including most of the new lodging development approved, the County has found that existing access is available, and has not required additional provision of access through OTDs, consistent with LCP Access Policy 2. Most of this development has been approved along the Moonstone Beach area in Cambria. The coastline in this area is available for public use as it is a state park.

Figure 6-2. Distribution of Development Types with OTDs/Easements



For still other development projects, the County has required other access mitigation: in two permits for the expansion of Ragged Point Inn, for example, the County required the applicant to improve an existing accessway to maximize it use for public access.[11] Overall, the County has increased the availability of access through implementation of coastal permits. Nonetheless, as discussed below, review of reported local permits shows that there are cases of local permits for development along the shoreline where the County has not consistently applied Access Policy 2 or Ordinance 23.04.420, including use of condition language that weakens the implementation of Access Policy 2 and Ordinance 23.04.420, and the siting of OTDs in locations that may not maximize public access.

Application of Policies: In a number of permits for both new residential development and for additions and/or remodels of existing residences, the County either required access OTDs or included findings that access is not required because adequate access exists based on the standards in Ordinance 23.04.420.[12] However, there were several actions for new residential development between the first public road and the sea in which lateral or vertical access was not

[11] FLANs 3-SLO-92-124; 3-SLO-94-131

[12] E.g. FLANs 3-SLO-93-102; 3-SLO-95-133; 3-SLO-95-073; 3-SLO-95-101; 3-SLO-95-118; 3-SLO-95-148; 3-SLO-95-156; 3-SLO-96-131; 3-SLO-96-132; 97-003; 37-047; 97-091; 97-103; 97-129; 98-123; 90-221.

standards in Ordinance 23.04.420.[12] However, there were several actions for new residential development between the first public road and the sea in which lateral or vertical access was not required but where the access findings were missing or did not specify why access was not required.[13] For example, in one project, the findings did not discuss that access already existed on the property and therefore wasn't necessary. In at least two cases, no access findings were made at all for development occurring on shorefront parcels.[14] These cases raise concern because without specific analysis and discussion of access issues in the permit findings, it is more likely that access opportunities may be lost. It is also more difficult to assure, through the monitoring of local coastal development permitting decisions, that the access policies are being effectively carried out. The Coastal Act Section 30604(c) requires specific access findings as one way to assure that actions carry out access policies.

The Commission has raised access issues with County actions on appeal, based on the lack of implementation of access requirements. For example, in the appeal for a proposed desalinization plant, the Commission found that "based on the Coastal Act, CZLUO, and the significant increase in beach use which will occur as a result of this project, it is necessary to require a lateral access dedication". [15] Had the project not been appealed, impacts to public access would not have been adequately mitigated as called for in the LCP, in a North Coast area where access is already limited.

For an abalone farm project west of Cayucos,[16] the County's findings state that "shoreline access has been determined to be inappropriate due to the sensitivity of the particular land use and the value of the abalone." In 1989, when this permit was approved, there was no existing formal public access between Cayucos and the intersection of Highways One and 46, a distance of almost 10 miles. Thus this area did not meet the standard of Ordinance 23.04.420 d(1), which states that in rural areas vertical access should be available every mile. Additionally, Access Policy 2 states that "within agricultural holdings, new vertical access shall be required only where the access can be sited along a property boundary (to minimize impacts on the agricultural operation) unless a more appropriate location exists." Agriculture Policy 12 notes that trails shall be located along parcel lines that would not significantly disrupt the agricultural operations and that improvement and management practices shall include developing access trails with fences or other buffers to protect agricultural lands. However, in acting on the project the County did not make adequate access findings to explain why alternatives for siting vertical access consistent with the LCP was not feasible. The abalone farm development is concentrated at the southern portion of the parcel (nearest the shoreline); the remainder of the parcel is open space, therefore a vertical accessway along either the western or eastern property may not have impacted the abalone production. The County's findings do not explain the impact either a vertical or lateral accessway might have on abalone production. The County's action on this permit does not appear to maximize public access in new development consistent with either Access Policy 2 or Agriculture Policy 12.

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[12] E.g. FLANs 3-SLO-93-102; 3-SLO-95-133; 3-SLO-95-073; 3-SLO-95-101; 3-SLO-95-118; 3-SLO-95-148; 3-SLO-95-156; 3-SLO-96-131; 3-SLO-96-132; 97-003; 37-047; 97-091; 97-103; 97-129; 98-123; 90-221.
[13] FLANS 3-SLO-94-143, 3-SLO-94-133, 3-SLO-95-086, 3-SLO-95-067, 4-89-273NB.
[14] 3-SLO-94-143 and 3-SLO-94-133
[15] A-3-SLO-95-069, pg. 19.
[16] 5-SLO-89-099

of this title" and/or that the project "is in conformance with the access and recreation policies ... because it will not inhibit access to coastal waters and recreation areas." However, the County findings did not explain why the proposed project would be exempt from access requirements under Ordinance 23.40.420 (e.g., conflicts with sensitive habitat, agricultural practices, public safety, or military needs). Access Policy 2 requires that new development along the shoreline that will impact public access provide access if those findings cannot be made.

Conditions Implementing Access Requirements: Some of the conditions requiring access easements appear to conflict with the language in the LCP, and appear to limit the intent of the access policies. In a number of cases, the County has conditioned the permit to require access "if applicable."[17] These projects appear to be between the first public road and the sea. The County does not define what conditions would make it "applicable" to require the access easement, and does not indicate that the proposed development or location of the development meet any of the criteria for excluding an access easement. As such, it appears that some of the County's actions as conditioned do not fully carry out requirements of Access Policy 2 and Ordinance 23.04.420 of the LCP.

Another case highlights the tension between meeting the Coastal Act goal of providing access and the protection of private property rights. For the Estero Bluffs site, the County required both a lateral and a vertical access OTD for a proposed lot-line adjustment.[18] In its action, the County found that the vertical access was necessary to comply with the standards under Ordinance 23.04.420, since the parcel itself was over one mile long. The County also found that access would not conflict with sensitive habitat resources or agricultural practices. However, in its final action, the Board of Supervisors conditioned the permit to record the access OTD for access to and along the shoreline "provided the applicant and the County agree to a fair market value, and terms for the County's payment of said value."

Although the LCP requires access easements as mitigation for new development, this type of requirement is always subject to challenge by those who may feel there is no regulatory nexus, following the reasoning of the *Nollan* Supreme Court case, to require an OTD. By allowing the County to negotiate a "fair value" for the easement, and, in effect, remove the access requirement if a fair value could not be negotiated, the County's actions in this case may not have met the letter of the LCP requirements. This case, though, may also illustrate the chilling effect that legal challenges to the regulatory requirements can have on public agencies charged with their implementation. It also points to the need to develop better information and methodology for assessing the impacts of new development on public access and recreation resources, to provide the basis for future access mitigation.

Finally, and more generally, the Commission's *Public Access Action Plan* (June, 1999) identified the use of OTDs as not the most suitable program for local governments to secure maximum access. This is because most local governments can and do require direct land dedications for public access through the development process. The Action Plan recommends replacing the OTD mechanism in LCPs with a direct dedication requirement. This change would provide for more timely mitigation by allowing for the opening of the accessways more quickly. Moreover,

[17] E.g., FLANs 3-SLO-95-110, 3-SLO-95-156, 3-SLO-96-132
[18] FLAN 3-SLO-97-008

it would eliminate unnecessary paper work, legal processes, and tracking of documentation. It would also eliminate expenses associated with the OTD process, as well as the common situation where a second or third generation property owner is surprised and unhappy to discover the presence of an OTD on their parcel, about to be accepted. Land dedications would avoid what is sometimes a cumbersome and unnecessary delay.

Siting of OTDs: In other instances the County has, in many cases, mitigated for impacts to public access as called for in the LCP, but has sited the OTDs in a manner that may not maximize public access. For example, in staff's review of aerial photographs and maps, the County required 15 lateral OTDs in Cambria, but all of them appear to be sited on rocky shores where access is difficult, or on publicly owned land where the public may already have access. Thus, while it might appear in certain findings that impacts to public access had been mitigated, the OTDs may not actually provide additional access opportunities.

In another example, the County issued a permit for the adjustment of nine lots located between Cambria and Cayucos on the Harmony coast. This case was appealed to the Commission partly on the grounds that public access impacts had not been adequately mitigated.[19] In the County's approval, a lateral access dedication was required. However, along this stretch of coast, there is no vertical access for approximately six miles to the south and five miles to the north, thus public access *to* the lateral easement was not assured. Also, the proposed lateral dedication was between the Mean High Tide Line (MHTL) and the toe of the bluff, which, in this area, is mostly rocky shoreline with little or no sandy beach. Through the appeal process, the applicant ultimately offered both vertical and lateral accessways on the project site. The vertical accessway OTD runs from Highway One to the MHTL, and a 200-foot wide lateral access dedication was offered that could be adjusted over time in response to erosion to ensure maximum public access. This would allow siting of the public access along an upper terrace as an alternative. While the LCP states that lateral accessways should be sited between the MHTL and the toe of the bluff, in some geographic situations assuring maximum public access may require ordinance provisions requiring easements encompassing blufftop areas to allow flexibility in siting public accessways.

In an appeal in Cayucos, the County had approved shorefront development with a condition of recording a lateral OTD.[20] However, the Commission, in its findings on appeal of the project, noted that the area to be dedicated was already publicly owned as part of Morro Strand State Beach, and therefore would not provide any additional mitigation to public access. Siting of the OTD therefore did not fully mitigate impacts of the development and as a result did not meet the intent of Access Policy 2. In another permit for a shoreline protective device across three parcels[21], the County required that an offer of lateral access be recorded; however, records provided by the County itself, as well as the draft North Coast update indicate that two of the parcels already contain *accepted* lateral OTDs. Additionally, the proposed seawall would have covered approximately 960 square feet of the easement. Ultimately, this action was appealed to the Coastal Commission, which found substantial issue with the project. The *de novo* hearing has not occurred yet at the request of the applicant. In this case, although the County's

[19] A-3-SLO-99-032; A-3-SLO-99-014
[20] A-3-SLO-98-074; 3-SLO-98-02.
[21] 3-SLO-99-018; A-3-SLO-99-019, still pending with the Commission.

conditions of approval at first blush might appear to mitigate for development along the shoreline, public access opportunities may actually have been impacted.

In addition to determining the best location for an easement to maximize public access, it is critical that both the County and Commission improve tracking of existing easements to avoid encroachment of development on the easements. The current LCP maps show generalized locations of access. The County requires as part of permit filing that existing easements on a site be identified. However, the management of these easements, and the siting of future easements, would benefit from a more comprehensive public access component in the LCP showing all existing and potential accessways. As a result of this Periodic Review project, the County and the Commission worked together to develop a parcel base map for use in GIS mapping. This will provide a useful tool in helping to identify the location of parcels with any existing access easements or OTDs and in helping the County in completion of an updated comprehensive access component.

Upland Support Facilities

In addition to providing physical access to and along the shoreline through the OTD mechanism, upland support facilities such as directional signing, parking and over-night visitor facilities are important elements in assuring that the public will have maximum access to shoreline recreation areas. As the population in general and the number of visitors increase, these elements need to be factored into public access planning.

The County's LCP states that a signing system program *should* be developed, but it is not a mandatory element of the LCP's access component. Certain areas in the County, such as Los Osos, have been identified as failing to maximize public access, not because the accessways do not exist, but because they are not clearly signed.

At the time of LCP certification, most of the state parks were identified as lacking sufficient parking for day use . Since certification, two of the parks, Montana de Oro and Morro Strand, were able to gain additional parking areas as a result of agreements with developers of adjacent parcels; however, lack of parking continues to be a problem. At Morro Strand State Beach, visitors park on neighboring streets, while in rural Montana de Oro State Park, cars are parked on the unpaved shoulder along the road. At Montana de Oro, park regulations limit the number of visitors that may participate in events due to lack of parking availability.

Upland support facilities are also important to address changing demands in public recreation. Within San Luis Obispo County, types of recreation uses and level of use vary, from high-intensity use of off-highway vehicles (OHVs) at Oceano Dunes State Vehicular Recreation Area to low-intensity uses at relatively pristine open space areas. The county also offers a diverse selection of recreational opportunities such as nature-viewing, hiking, camping, and boating. However, since LCP certification, recreational needs have been changing within the County. Demand is quickly growing for kayaking, windsurfing, and mountain biking activities. Kayakers and windsurfers are present within Morro Bay as well as all along the outer coast. And one of the most popular locations for windsurfing is along the North Coast, near Piedras Blancas. The recreational use of personal watercraft is also occurring; however, anecdotal evidence suggests

that the use is not widespread.[22] A small number of users have been noted in Morro Bay, and almost none on the outer coast. As access and recreation needs in the coastal zone have changed and increased, concerns have grown about protecting existing access opportunities, provision of adequate access in rural areas, and conflicts between public use and sensitive habitats.

Overall, there is a need to assess changing access and recreation demands and identify needed upland support facilities such as parking, signage, and other management concerns. For example, the U.S. Forest Service has recently acquired property at the northern County line, that might provide new access facilities and amenities along this stretch of coastline.

Distribution of Coastal Access Opportunities.
Another key issue in providing maximum public access is ensuring that access opportunities are well-distributed throughout any area, consistent with habitat protection and agricultural constraints. As discussed, the use of OTDs can be an important component in distributing access opportunities throughout the County. By requiring OTDs for access where new development has been permitted, the supply of access is distributed to where demand grows as a result of new development, and helps to mitigate the impacts of overuse by the public of any single area. However, because OTDs are required as mitigation for development, they tend to cluster in urbanized areas, thus limiting their effectiveness in rural areas, where lack of public access is most problematic. Impacts to public access have been mitigated for to a great extent in San Luis Obispo with the use of OTDs, but a number of areas in the County remain with limited public access opportunities.

Within San Luis Obispo County two stretches of shoreline, each covering approximately 15 miles, exist with no available vertical access. In the North Coast, between Ragged Point and the overlooks south of Piedras Blancas, there are 16 miles of shoreline with no formal vertical access to the bluffs and shoreline. There is also a 14-mile expanse of coastline where no vertical access is provided between Montana de Oro State Park and Port San Luis, although the Pecho Coast Trail provides limited lateral blufftop access through docent-led tours. The Diablo Canyon Nuclear Power Plant is located on this isolated expanse of coast. It is projected that the plant will be phased out in the next five years, offering potential opportunities for additional vertical and lateral coastal access in this area. In March, 2000, the County passed Measure A, an advisory vote which recognized Diablo Canyon as "an exceptionally precious coastal resource." It further stated that the canyon area should be maintained for "habitat preservation, sustainable agricultural activities, and public use and enjoyment consistent with public safety and property rights once the lands are no longer needed as an emergency buffer for the Diablo Canyon Nuclear Plant after its remaining operating life." Most recently, an ecological conservation easement was placed over more than 2,000 acres in this area through an agreement between the Regional Water Quality Control Board and the Diablo Canyon Plant to address water impacts from the plant's cooling system.

Another long stretch of shoreline with limited public access is between Cambria and Cayucos. The recent acquisition of the Estero Bluffs property will provide access at the southern end of this area, once it is transferred to the State Department of Parks and Recreation. Along the

[22] Phone conversations with Diane McGrath, Interpretive Specialist, DPR, and Neil Havlik, City of San Luis Obispo.

Harmony coast, though, there a number of OTDs, but no accessways are yet open. As discussed in Chapter 2, this stretch of coast is undergoing a cumulative transformation from historic grazing lands to a more developed residential character. This relatively undeveloped coastline, though, could provide incredible public access opportunities, as long as they were developed consistent with sensitive resource protection concerns.

Other than the general requirement to maximize access, the policies in the LCP do not specifically speak to the issue of *distribution* of access. Section 30212.5 of the Coastal Act states that "wherever appropriate and feasible, public facilities ... shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area." The area plans include programs that specify areas to be improved or acquired for public access needs. These programs may help with access opportunity distribution.

As discussed above, review of the local permits shows that the vast majority of access OTDs were required in the urban areas of Cambria, Cayucos, and Los Osos; only seven were located in the rural areas. The County required one OTD in both the San Luis Bay and South County planning areas. Obviously, the distribution of Offers to Dedicate Public Access closely corresponds to areas experiencing the most development. This pattern illustrates that sole reliance on OTDs is inadequate to assure maximum distribution.

California Coastal Trail: Since certification of the County's LCP, the importance of completing a coastal trail along the length of the state has been identified by the Commission as a statewide public access priority. The California Coastal Trail (CCT) is a work-in-progress, with the goal of providing trail access to and along the entire length of California's 1,100-mile coastline, as specified in the California Coastal Plan of 1975. In 1999, the national importance of the California Coastal Trail was recognized by its designation under a federal program as California's Legacy Millennium Trail, a part of the nationwide Millennium Trail. In San Luis Obispo County, approximately 37% of the coast is open for lateral access, although work remains to be done to officially designate these stretches as the "California Coastal Trail". These percentages, though, are approximations, based on general assessments of accessways, public lands, beaches, and OTDs that provide public access. There also remains a need to conduct comprehensive and specific trail planning and implementation. For example, one of the ingredients necessary for the completion of the CCT is ensuring that all offers to dedicate lateral easements for either beach or blufftop access are accepted and opened.

One of the largest gaps in the CCT is located in the North Coast area of San Luis Obispo County. Other than at San Simeon Acres, there are no lateral OTDs in this region to enable trail completion (see Map 6-A). In this area, another mechanism for completing the CCT should be identified as part of the comprehensive, updated Public Access Component.

Consistency Analysis: The Coastal Act requires that maximum public access be provided to and along the shoreline (Section 30210). Sections 30211 and 30212 also require that development not interfere with existing access opportunities, and requires that new development along the shoreline provide access, consistent with public safely, military security, and the protection of fragile resources, unless adequate access is available nearby. The San Luis Obispo LCP has policies that closely reflect the Coastal Act sections. However, as discussed above, several of the

County's past actions did not result in access mitigation for new development along the shoreline, and, therefore, failed to maximize public access opportunities. Commission findings on at least 16 separate appeals of local permits also indicate that the County's actions did not adequately protect access opportunities, and were inconsistent with the access policies of the Coastal Act.

As the Commission found in its review of the North Coast Update in 1998, the County's LCP lacks a comprehensive and cohesive access component to the LCP. The Commission found that without this component "it is difficult to identify and protect existing and potential access resources .... It is also difficult to plan for future access resource development and management or understand the precise access policy requirements for new development in the coastal zone".[23] The Coastal Act requires the protection of existing access, and that access be maximized to and along the coast. Without knowing the full range of existing and potential access resources, the County cannot adequately protect those access opportunities.

By improving its conditions and findings on projects along the shoreline and incorporating a comprehensive access program into the LCP, the County could improve its implementation of the LCP and compliance with Coastal Act policies.

Coastal Act Section 30212.5 states that public facilities shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area, wherever appropriate and feasible. The County has implemented its LCP to assure provision of public access but distribution of access cannot be assured solely through mitigation of new development. Appropriate LCP designations, acquisitions and other implementing tools as part of a comprehensive Access Plan are necessary to assure such distribution. Further, expanding the siting of lateral access opportunities to include easements along blufftops may provide a means to contribute to completion of the CCT and thus maximize coastal access consistent with the Coastal Act.

Distribution of access must take into account the type of access and recreation proposed. Distribution of higher intensity recreation may not be consistent with the protection of resources and with other coastal policies. Concentrating higher intensity commercial recreation uses in nodes while assuring broad distribution of lower intensity pedestrian oriented accessways may be most protective of coastal resources. In particular, access facilities should be located consistent with an area's ability to accommodate them, so that only low-intensity or passive recreational uses are located in areas with limited resources to support them (such as water) or where sensitive resources need to be protected (see below for more discussion). Upland facilities, such as parking for surfing, kayaking, windsurfing, and other coastal recreation activities, need to be located and managed to provide maximum opportunities.

[23] California Coastal Commission findings LCPA 1-97 (North Coast Area Plan Update). January, 1998. Pg. 159.

Preliminary Policy Alternatives:

There are several ways the County could improve measures implementing public access requirements. The County should ensure that all permits between the first public road and the sea include adequate access findings as required by CZLUO 23.04.420, 23.02.034(c)(4) and 23.01.033.

Preliminary Recommendation 6-1: Incorporate Comprehensive Access Components into Each Area Plan

In response to the Commission's 1998 NCAP findings, the County has positively responded by drafting a comprehensive access component for the current North Coast Area Plan Update Project Description. The County has also begun work on a similar program for the Estero Area Plan. The Access component should include a discussion of access goals, policies, standards, programs, and other relevant management objectives and should include a complete inventory of existing and potential access. The County has also prepared a Request for Proposal for a project whose purpose is to complete a coastal accessway plan for the County's coastal areas, including incorporated coastal cities. The plan is proposed to consist of County coastal zone policies and programs, area-specific policies and programs, general development standards for vertical accessways, an implementation chapter, and maps depicting existing and proposed access. This plan will provide extensive information for the Comprehensive Access Components of the LCP's Area Plans. Such a plan can also include strategies for increasing public acquisition of areas and ensure existing public areas are used for access and recreation. The County should also identify areas where the requirements for lateral access might be expanded to include provision of blufftop access in locations where the Comprehensive Access Component indicates maximum public access should be provided through a blufftop trail system. Other components to address include: identification of specific coastal areas for particular uses, including amending the LCP to incorporate such policy advisories as Measure A; concentration of more intense access and recreation uses in urban areas; and, provision and management of passive recreation in sensitive rural areas.

Preliminary Recommendation 6-2: Amend LCP Lateral Access Requirements to Provide for Blufftop Accessways

Although blufftop access dedications are not precluded by the existing LCP, current language directs decision makers to dedications between the Mean High Tide Line (MHTL) and the toe of the bluff. This may lead to access mitigation requirements that don't actually provide practical or functional access, such as along rocky shorelines. The LCP should be amended to clarify that optimum access should be evaluated and provided, consistent with Coastal Act policy to maximize public access.

Preliminary Recommendation 6-3: Continue Efforts to Accept and Open Outstanding Access OTDs

The County should continue efforts to ensure all outstanding OTDs are accepted and opened.

Preliminary Recommendation 6-4: Amend LCP to allow Direct Dedications; Evaluate Accessway Performance Standards

As discussed in the Commission's Public Access Action Plan, the County should amend the LCP to allow for direct dedication of public access to the County where appropriate. Performance standards for access OTDs and dedications should be evaluated to address such needs as coastal erosion and long-term trail maintenance.

C.2. Protecting Existing Public Access

Overview: Many coastal access and recreational opportunities are provided by numerous public parklands within the County. In addition to the parks, there are several other formal accessways in the County, many provided by the County's acceptance of Offers to Dedicate Public Access. However, there also informal accessways, such as the street ends leading to the shoreline in Cambria, Cayucos and Los Osos, some of which may be threatened by quiet title actions on behalf of private property owners. Other types of informal access include areas of historic use, where prescriptive rights may exist.[24] These historic use areas may provide a great deal of public access opportunity, especially in the North Coast area of the County.

Existing access and recreation opportunities are also protected through zoning. The County LCP designates over 17,000 acres in the coastal zone as Recreation, which limits the types of development allowed in that category.[25] Some of these lands in the rural North Coast, though, should be redesignated to reflect the viability of existing agricultural land uses (see Chapter 2).

LCP Implementation: Access Policy 1 of the LCP states that public prescriptive rights may exist in parts of the County and that development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. Recreation Policy 1 states that coastal recreational and visitor-serving facilities shall be protected, encouraged, and where feasible provided by both public and private means. Recreation Policy 2 states that recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use.

The County's Access and Recreation policies strive to protect access and recreational opportunities. The implementation of these policies, though, may not have fully protected some access opportunities. Threats include losses of access due to quiet title actions and lack of protection of prescriptive rights.

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[24] Prescriptive rights refer to public rights that are acquired over private lands. These rights occur as the public uses the land for recreational purposes, such as a trail to the coast. Prescriptive rights may only be established by a court of law, with very specific findings. Prescriptive rights findings must include that (1) people have used the land for a five year period, without permission and without effective interference; (2) the use has been substantial; (3) the land has been used by members of the general public, not only neighbors or friends of the fee owner; and (4) the use of the area has been with the actual or presumed knowledge of the owner and without significant objection or attempts by the owner to prevent or halt such use.

[25] Acreages are North Coast: 1607, Estero: 5472, SLB: 732, South County: 9747 (from each of the area plans of the LCP, and the Estero Draft Update, February 1999).

Quiet Title Actions:
An emerging issue in the County affecting the availability of historically used access areas is the use of quiet title actions to privatize lands that may have been previously dedicated to the public. A quiet title action is a judicial process that permits a party to quiet any suggestion of public title to property that was previously dedicated to the public by actions such as the filing of a subdivision or tract map. In order for a plaintiff to prevail in such an action, they must establish all of the following: (1) that the property was dedicated by map only; (2) that the property was never formally accepted by the governing entity within 25 years of the dedication; (3) that the property was never used by the public within 25 years of the dedication for the purposes for which it was dedicated; and (4) that after the property was dedicated, it was sold to a third party and used as if free of the dedication.[26]

A loss of public access is evident in the Los Osos area through quiet title actions on street ends leading to Morro Bay. The street ends in Los Osos provide both visual access as well as vertical access for both kayak launching at higher tides and, at some places, connecting to a lateral trail along the bayfront. Quiet title actions have also affected access opportunities in Cayucos, although to a lesser extent.

In the last decade, at least eleven quiet title action lawsuits against the County have occurred, with three resulting in permanently lost public coastal access. In the County's review of the proposed actions, it is unclear to what extent they are reviewed for uses other than transportation. If public access is not taken into account it may be in conflict with Policy 1, which states that development shall not interfere with the public's right of access to the sea where acquired through historic use. Moreover, inadequate review of quiet title actions reduces opportunities to develop and implement a more coordinated program of habitat and access management over public lands.

In other quiet title actions, the judgments have resulted in offers to dedicate access, usually in narrow ten feet strips. Unfortunately, most offers have not yet been accepted by a managing agency, so are not yet available to the public. Even after the accessways have been opened, many are not signed, so all but the most informed of the public are unaware of their existence. And, in some cases, property owners have landscaped on or directly adjacent to the narrow accessways, further concealing their existence. These actions serve to reduce the extent of public access.

Currently, the County has no complete inventory of locations of potential quiet title actions that could result in lost coastal access. The County's LCP also has no policies specifically addressing loss of access through quiet title actions. A recommended program for quiet title actions is included in the *Circulation* chapter of the draft Estero Area Plan Update. This proposed program would recommend that all requests to County Engineering for road abandonment and all requests to the County Counsel for quiet title actions be referred to the Los Osos Community Services District and the Los Osos Community Advisory Council for review and comment. However, since programs are not mandatory, it does not guarantee that these actions would be referred to the above-mentioned groups. And, it does not provide criteria for such groups, or the County, to adequately consider public access needs in the review. Another proposed program states that the

[26] Code of Civil Procedure section 771.010 et seq.

County should protect or develop street ends along Morro Bay for public access and habitat value; five sites are specified.

These proposed programs clearly indicate the County's intent to try to protect public access from loss through quiet title actions. However, as programs, their implementation is not assured. Policies to specifically address these access issues should be incorporated into a comprehensive Public Access Component of the LCP. To assure the protection of access opportunities, as required under Access Policy 1, the Public Access Component should also have a complete inventory of existing and potential accessways, and should ensure that actions such as quiet title actions will not reduce the extent of access opportunities.

Prescriptive Rights: The Commission, and the County through its LCP, are required by Section 30211 of the Coastal Act to protect historic public access use. Although a comprehensive evaluation has not been done of every area where prescriptive rights may exist, some areas in San Luis Obispo County have been identified where there has been historic use, including the South Bay area of the Estero Planning Area and Mallagh Landing (Pirate's Cove) in the San Luis Bay Planning Area.[27] However, Hearst Ranch, in the North Coast Planning Area, is by far the largest area where historic public use may exist. None of these areas has yet been subject to a prescriptive rights study.

The portion of Hearst Ranch lying within the North Coast Planning Area of San Luis Obispo County encompasses approximately 48,000 acres, including several miles of oceanfront property. Currently and historically, most of the land has been used for cattle-grazing. This part of the coast has great potential for enhanced public access. The numerous informal trails that currently extend from a variety of automobile pullouts along Highway One down to attractive beaches reflect this potential for future formalized public access on the North Coast. The legal status of these informal public accessways and associated recreational uses has not been determined, and in 1972, the Hearst Corporation filed a Notice of Permissive Use that affected future claims of public access rights. The legislature has declared that such recorded notices are sufficient evidence to preclude a finding of prescriptive use for any time period after the filing of such a notice.

In the Commission action on the North Coast Area Plan Update (LCP Amendment 1-97), it was noted that evidence suggests that the public has used various areas along the North Coast including the Hearst Ranch for at least 40 years, from 1957 onward. There is a considerable amount of informal recreational use of the rural north coast shoreline. The numerous activities include fishing, diving, kayaking, windsurfing, surfing, boating, boat launching, picnicking, sitting on the beach, playing on dunes, walking, jogging, bonfires, walking dogs, collecting shells/driftwood, building sand castles, sunbathing, photography, painting, and watching marine mammals.

The County has not engaged in a formal prescriptive rights study on the Hearst Ranch. In other cases, though, the County has approved development in areas where prescriptive rights might exist, without evaluation of this possibility. For example, the County approved a development

[27] San Luis Obispo Co. Dept. of Planning, North Coast Update Project Description, January 2000, p. 8-28.

exist, without evaluation of this possibility. For example, the County approved a development for the demolition and rebuild of a single-family residence in Cuesta Inlet. One of the standards in the Estero Area Plan specifically states that new development in Cuesta Inlet shall be required to provide public access consistent with existing prescriptive rights. While the County action notes this standard, it goes on to assert that "[I]t appears that this project is surrounded by public access ways. A public access is not necessary across this site."[28] Nonetheless, the LCP directs that any prescriptive rights that may exist be protected. However, if no studies are completed to establish the likelihood of such rights, they cannot be protected through permit actions. Unfortunately, accomplishing such studies requires resources; the Commission also has not been able to pursue prescriptive rights as vigorously as called for by the goals of the Coastal Act. Only recently has the Commission been able to provide staff resources to evaluate potential prescriptive rights. Without such evaluations, public access may not be fully protected.

Consistency Analysis: The Coastal Act requires that development shall not interfere with the public's right of access to the sea where acquired thought use or legislative authorization (Section 30211). With regard to protecting recreational opportunities, the Coastal Act provides that oceanfront land suitable for recreational use shall be protected for recreational use and development (Section 30221). It also states that the use of private lands suitable for visitor-serving commercial recreation facilities shall have priority over private residential, general industrial or general commercial development. While the policies in the County's LCP generally reflect these Coastal Act sections, some of the County's actions fail to meet the intent of the policies, and public access opportunities have been lost.

As the Commission found in its findings for the North Coast Update, the County's LCP lacks a comprehensive and cohesive access component to the LCP. The Commission found that without this component "it is difficult to identify and protect existing and potential access resources… . It is also difficult to plan for future access resource development and management or understand the precise access policy requirements for new development in the coastal zone."[29] The Coastal Act requires the protection of existing access, and that access be maximized to and along the coast. Without knowing the full range of existing and potential access resources, the County cannot adequately protect those access opportunities. The County LCP contains provisions to protect historic public use. However, as noted, loss of access through quiet title actions can contribute to a loss of maximum public access.

Preliminary Policy Alternatives

Protection of existing public access can be enhanced through consideration of the following policy options:

Preliminary Recommendation 6-5: Develop an LCP Program to Document and Pursue Prescriptive Rights

[28] 3-SLO-93-052
[29] LCPA 1-97, January 1998, pg. 159.

could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights.

Preliminary Recommendation 6-6: Develop LCP Program to Assure Protection of Existing and Potential Public Rights

The County should develop a program to assure comprehensive review of quiet title actions and other changes in intensity of land use, including potential abandonments of public right-of-ways, that may adversely impact public access. A more expanded review of potential loss of historic offers to the public should be pursued. The County has recognized this concern in the proposed Estero Area Plan Update Circulation Chapter regarding Los Osos: "Preservation of all rights-of-way and offers of dedication for roads, ways, vertical and other accessways." The County could further protect public access opportunities by accepting all dedicated street ends within Los Osos. The County and Commission should discuss options for coordinating and pooling resources to evaluate quiet title actions, to maximize protection of public access opportunities.

C.3. Providing Low-Cost Visitor-Serving Access and Recreation

Overview: Coastal Act section 30213 requires the protection and provision of lower-cost visitor-serving and recreational development. Since 1988, the County has issued 57 permits for new development on parcels zoned for recreation. Forty-five of these permits were for public recreation facilities or other types of visitor-serving development and therefore appropriate for preserving the area for recreational uses. However, public demand for lower-cost visitor uses has increased since certification, and more attention is needed on protection and provision of such uses in San Luis Obispo. In addition, lower-cost visitor recreation is more suitable for areas of the coastal zone where resources to support new development are limited, and where the sensitive resources such as habitat and scenic views, need to be protected.

LCP Implementation: *Campgrounds*: Six of the 10 State Parks[30] and one county park[31] in coastal San Luis Obispo County provide overnight camping opportunities. Generally there has been a higher demand for camping opportunities than the parks have been able to provide; at the time of LCP certification this concern was noted and it continues to be the case today.

When background studies were being prepared for LCP planning in 1979, the County identified 987 existing public campsites in the coastal zone. In 1988 when the LCP was certified there were over 1,800 campsites available in both public and private campgrounds. The LCP notes that the State Park plans proposed development of 554 additional campsites. This includes Montana de Oro and Morro Bay State Parks, whose plans, both adopted in 1988, called for 120-200 additional campsites. However, only San Simeon State Beach and Oceano Memorial County Park have been successful in adding campsites to their facilities. The efforts to expand overnight camping were substantial in the years leading up to certification. Since certification, the current facilities number 1,739, a slight decrease from certification. In addition, other

[30] San Simeon State Beach, Morro Strand State Beach, Morro Bay State Park, Montana de Oro State Park, Pismo State Beach, Oceano Dunes State Vehicular Recreation Area
[31] Oceano Memorial County Park

overnight camping were substantial in the years leading up to certification. Since certification, the current facilities number 1,739, a slight decrease from certification. In addition, other proposals have been made that would potentially decrease the availability of future camping, such as the San Luis Harbor proposal to site a commercial hotel on an area designated for camping at Harbor Terrace.

Some of the campsites in the parks provide water and electrical hookups for RVs; in addition to those, several private resorts offer overnight opportunities for RV enthusiasts. Currently there are 1,469 sites in private resorts offered for RVs, up from 900 in 1979. These, too, are usually fully occupied, especially if water and electrical hookups are supplied.

There continues to be unmet demand for both tent and RV camping in coastal San Luis Obispo County. On weekends between April and October virtually all the campgrounds are fully booked in advance, and potential campers are turned away. However, the number of coastal campsites may have already reached capacity; an increase at current locations could mean undue impact on sensitive coastal resources.

Overnight Accommodations: As noted, visitor use of the coast has increased dramatically since LCP certification and the number of overnight lodging units approved by coastal development permits also increased. In 1979, it was noted that coastal San Luis Obispo County contained approximately 880 overnight units in 39 hotels and motels.[32] Since certification, the County has approved the development of over 700 additional hotel, motel, and bed and breakfast units in the coastal zone. The proposed North Coast Area Plan update notes a 110% increase in the number of visitor-serving accommodations between 1982 and 1997.

For the North Coast, the occupancy rate was estimated to be approximately 55% in 1997. Certainly, there are peak times with higher occupancy rates, but the overall rate of 55% is considered to be low by hotel and motel industry standards.[33] Data from the City of Morro Bay also support the findings of this relatively low occupancy rate. In 1998 the occupancy rate for that city was 54%. Generally, an annual occupancy rate of 60 to 65% is regarded as breakeven for an investment-quality lodging establishment. A hotel market is considered ready for new development when overall occupancy rates reach 65 to 70%.[34] Despite this apparent lack of need for additional hotel developments, a number have been proposed over the years, most notably within the Hearst Ranch landholdings and also at Harbor Terrace on lands owned by the Port San Luis Harbor District. Limitations at both of these locations include lack of existing infrastructure, such as lack of access to water along the North Coast, and road capacity in Avila (see Chapter 2 for more discussion).

Since certification of the LCP, the population and visitor-serving economy of San Luis Obispo County has continued to grow, placing increased demands on existing public access and highlighting the continuing need to expand public access and coastal recreation opportunities. Population has increased 20% since 1988 and is projected to increase an additional 49% by 2015. Attendance at the 10 state parks in the County for both camping and day-use has increased

[32] San Luis Obispo County, Shoreline Access, Work Task 403, June 1979.
[33] North Coast Planning Area update, 1998
[34] *Evaluation of Development Potential for Visitor-Serving Uses, Caratan/Colmer Site, Morro Bay*, prepared for City of Morro Bay by Bay Area Economics, December 1999.

about 3% since 1988, from approximately 6.9 million to approximately 7.1 million in 1998/99. Within the County park system, attendance has increased 22% between 1988 and 1995. Additionally, changed conditions since LCP certification compound the need for increased attention to the provision of coastal recreation and public access opportunities.

Preliminary Policy Alternatives

Preliminary Recommendation 6-7: Comprehensive Public Recreation Planning
Through a comprehensive Public Access planning process, long-term supply and demand and opportunities for low-cost visitor-serving recreation should be analyzed. The LCP should be evaluated for potential amendments to provide for such uses. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor-serving uses, including that which may be needed in the future.

C.4. Balancing Access and Recreation with Protection of Sensitive Habitats.

Overview: As discussed in Chapter 4 (ESHA), San Luis Obispo County has a wealth of environmentally sensitive habitat areas. Although the Coastal Act requires that public access be maximized, it also requires that the provision of access be balanced with the protection of sensitive habitats. Since certification of the LCP, new information and changed circumstances have emerged, highlighting the need to revisit policies regarding the balance between sensitive resource protection and the provision of public access. For example, the snowy plover was listed as a threatened species and a new colony of elephant seals was established at Piedras Blancas.

LCP Implementation: Access Policy 2 of the LCP notes that maximum public access within new development may be inconsistent with the protection of sensitive habitats. It also notes that limited forms of access and mitigation methods should be considered to optimize public access while protecting resources and land uses. This policy is implemented by Ordinances 23.04.420 c and k. Additionally, ESHA Policies 29 and 38 address the design of trails in and adjoining sensitive habitats and limiting the use of coastal access to minimize impacts on marine resources.

With regard to Oceano Dunes State Vehicular Recreation Area (ODSVRA), the South County Planning Area standards provide that camping areas be limited in number to allow for adequate environmental protection throughout the dunes and that natural buffer areas for sensitive habitat areas shall be identified and fenced. Issues concerning visitor use and the protection of sensitive resources at the ODSVRA are currently being addressed in a separate staff recommendation (see 4-82-300-A5).

Generally, the County has been successful in balancing the provision of public access with the protection of sensitive resources in their regulatory program. Three county actions illustrate

this.[35] In 1991, Montana de Oro's General Plan was submitted to the County; the findings indicated that while most of the plan was to be approved, they had concerns with other areas including camping and parking density.[36] Ultimately, the majority of the plan was approved; however, the County acted appropriately in reducing the number of proposed campsites and parking spaces in order to limit the impact on sensitive resources at the park.

Two other permits approved by the County were for public access trails in sensitive habitat areas, one at Los Osos Oaks State Reserve,[37] and one at Oso Flaco Lake.[38] At Oso Flaco Lake, a kiosk and boardwalk for pedestrian access through Oso Flaco Lake Natural Area were proposed. The purpose of the project was to limit vegetation and sand disturbance in the project area to allow the dunes to become restabilized. The County action notes that the proposed project is located within a sensitive resource area, and that a botanical survey concluded that the boardwalk would be a step toward directing use away from the fragile dunes and sensitive vegetation in the area. It is also noted that the two planning area standards that relate to the project site, dune stabilization and limitation on use, are met by the proposed project. This project illustrates the County's success at balancing public access needs with protection of sensitive resources.

Oceano Dunes State Vehicular Recreation Area: An area of ongoing concern regarding the balance of providing public access and protection of sensitive resource areas is at Oceano Dunes State Vehicular Recreation Area (ODSVRA). Specific issues concerning ODSVRA are addressed in a separate staff recommendation concerning condition compliance and protection of sensitive resources at the Park (see 4-82-300-A5). It is important to note, though, that since the Commission's original involvement in resource management at the ODSVRA, and since certification of the LCP, new sensitive resource information has emerged: in 1993, the snowy plover, which nests in the area, was listed as a threatened species, thus increasing the need to address conflicts between vehicles and habitat protection.

Critical habitat for the snowy plover has been designated at Point Sur Beach, Arroyo Hondo Creek Beach, Arroyo Laguna Creek Beach, Toro Creek Beach, Morro Strand State Beach, and the Morro Sandspit, as well as Pismo Beach and points south.[39] As the number of visitors to the beaches increases, the need for the County and Commission to address these impacts grows. Additional research and coordination is needed to ensure that all beaches that provide habitat for the plover are planned for and managed appropriately.

Piedras Blancas: New sensitive resource areas have also been identified at Piedras Blancas since LCP certification in 1988. An elephant seal colony was established in the small cove just south of the Piedras Blancas lighthouse in late 1990 when less than two dozen elephant seals were counted. The colony has grown steadily. In 1999 the total elephant seal population for Piedras Blancas was estimated to be around 7500. Since it is speculated that elephant seals return to mate on the same beaches where they were born, the colony will likely continue to expand.

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[35] FLANs 4-SLO-90-211, 4-SLO-91-185, and 3-SLO-92-120
[36] 4-SLO-91-185
[37] 3-SLO-92-120
[38] 4-SLO-90-211
[39] USFWS, Federal Register: December 7, 1999 (Volume 64, Number 234)

As the colony rapidly expanded, conflicts with visitors arose. Dangerous conditions were developing; visitors were parking illegally on both sides of narrow Highway One, then traversing through private property to view the seals. In 1995 Caltrans applied for a permit from the County to realign a portion of Highway One near Piedras Blancas. As part of that permit, a trade of property between the state and the Hearst Corporation was approved by the County so that a formal accessway to the south of the project area was closed, and two informal ones at Twin Creeks Beach were formalized and improved.[40]

Since the late 1990s, an interpretive program has been implemented through county, state, and federal efforts at the Caltrans vista points through which docents are available to the visiting public. This program has been tremendously successful and has helped to balance the conflicts between public access and sensitive elephant seal habitat. The colony, though, may be growing and spreading south, which highlights the importance of planning for and managing potential future conflicts between this habitat and public access.

Another area where more focused attention is needed concerns the development of Habitat Conservation Plans (HCPs) in locations such as Los Osos. This is particularly true where habitat protection efforts may overlap with open space protection goals, as with the Greenbelt program in Los Osos (see ESHA and Development chapters). Opportunities for accounting for appropriate public access in areas where sensitive habitats or open space are proposed for protection will need to be carefully evaluated.

Consistency Analysis: Section 30210 of the Coastal Act provides that maximum access and recreational opportunities shall be provided consistent with the need to protect natural resource areas from overuse. Section 30214 states the need to take into account the access site's capacity to sustain use and at what level of capacity. It also notes that the appropriateness of limiting public access depending on such factors as the fragility of the natural resources in the area.

The LCP contains adequate policies and standards to balance the provision of public access and recreation with the protection of sensitive resource areas. And thus far, through its permitting actions, those policies generally have been implemented well. However, because of development pressures within the County, and statewide, as well as new information on sensitive resources, the need to maintain this balance becomes ever more critical. It is important that the County include in its LCP a comprehensive public access component, showing where existing and potential accessways are located, in addition to noting where potential conflict exists with regard to sensitive resources. The Access Component could also identify management options to control and monitor access and, should an accessway ever need to be temporarily or permanently closed, identify appropriate alternative access locations.

[40] A-3-SLO-95-70

Preliminary Policy Alternatives:

There are some options for the County to strengthen LCP provisions to maximize access and protect sensitive resources in light of new scientific information and increasing recreational demands. The development of a Comprehensive Access Component could include maps designating locations of known potential areas of conflict between public access and sensitive resource protection, and potential management measures. The County's proposed draft North Coast Update includes a standard that lists and restricts allowable development within an ESHA.[41] Similar standards could be developed in the rest of the County.

The draft North Coast Update also includes proposed policies for managing the balance between elephant seals and providing public access. It states that a joint planning initiative will be undertaken with the Monterey Bay National Marine Sanctuary (MBNMS) and National Marine Fisheries Service (NMFS) to establish a management program, which will incorporate the interim management program initiated by Caltrans pursuant to A-3-SLO-95-070. Another policy proposes observation facilities to be provided only after the impacts of these facilities to elephant seals and their habitat have been considered. The provision of lateral access for the California Coastal Trail is addressed also. The policy proposes that where the CCT is on a beach that is seasonally occupied by the seals, a supplementary blufftop trail should be provided. All of these proposed policies and standards are worthy of consideration for maintaining the balance between protecting sensitive resources at Piedras Blancas and providing needed public access; similar standards could be developed for other areas of the coast as part of the Access Component. In addition, the County is encouraged to continue to work with USFWS, DFG, and DPR to develop strategies to manage sensitive habitats in recreation areas.

Preliminary Recommendation 6-8: Review New Access Developments for Appropriate Habitat Management Measures

In reviewing proposals that include public access in sensitive areas, consider the full range of management measures and use limitations that could be put in place to ensure protection of the resource, while at the same time allowing for maximum public access.

Preliminary Recommendation 6-9: Habitat Conservation Plan Access Review

Include public access management and enhancement as a component of all habitat management planning and conservation plans.

[41] San Luis Obispo Co. Dept. of Planning and Building, North Coast Update Project Description, January 2000, pg. 7-19.

CHAPTER 7: COASTAL HAZARDS

Shoreline Erosion

A. Policy Framework

Coastal Act: The Coastal Act requires that new development be sited and designed to minimize risk to life and property specifically in areas of high geologic, flood and fire hazard. Under the Coastal Act, development is required to be sited and designed to assure stability and structural integrity and neither create nor contribute significantly to erosion or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs (Section 30253). Section 30235 of the Act allows the construction of shoreline protective devices where existing development is threatened from erosion and when designed to eliminate or mitigate impacts on shoreline sand supply. Further, the Coastal Act provides that development damaged or destroyed by natural disasters can be rebuilt in the same area, exempt from coastal permits, provided they are not expanded by more than 10% and conform to existing zoning requirements. Certain emergency actions are also exempt from permit review.

In carrying out these Coastal Act policies in permits, appeals and in certifying LCPs, the Commission has used a variety of development controls to implement these Coastal Act policies. These include such things as: ensuring adequate setbacks; limiting seawalls to protect existing *primary* structures at risk rather than ancillary structures; allowing placement of seawalls only where there is no less environmentally damaging alternative to protect the structure; ensuring that seawalls are designed to minimize impacts such as encroachment onto sandy beach, replenishing beach sand trapped behind walls, and restoring sand berms or dunes to provide alternative protection. Recently, based on new information about the increase in the amount of shoreline armoring occurring in California, the Commission has implemented measures to encourage resiting of new structures outside of hazardous areas and to avoid future armoring. In some cases, where an applicant's geologic assessment determines that new development is sited on vacant lands such that it will not need a seawall over the life of the structure, the Commission has required a condition waiving the right to such future armoring.

LCP Policies: To carry out the policies of the Coastal Act regarding shoreline hazards, the certified San Luis Obispo County LCP aims to protect the natural state of beaches and bluffs by imposing strict standards on bluff top and shoreline development.

Blufftop development: LCP Coastal Hazard Policies No. 3 and No. 7 require a detailed review of bluff top development by a Registered Geologist or Certified Engineering Geologist that provides conclusions about geologic stability and recommendations on structural design. Minimum setback distances in the Land Use Ordinances for new and expanding blufftop development (CZLUO Section 23.04.118) are required to ensure the structure will be safe from erosion and wave action without the need for a shoreline protective device for 75 years. A Certified Engineering Geologist determines setback distances based on evaluation of site stability. However, the CZLUO 23.07.082 exempts certain development from the geologic

report requirements, including certain single-family residences unless located in area subject to liquefaction or landslide and additions and alterations except where the site is adjacent to a coastal bluff.

Seawall development: LCP Coastal Hazard Policy No. 1 provides required standards that prohibit construction of new development on the beach, with the exception of coastal dependent uses and public recreation facilities. New development is to be located and designed to minimize risk to life and property and shall be designed so that shoreline protective devices will not be needed for the life of the structure.

Furthermore, LCP Coastal Hazard Policies No. 4 and No. 5 and CZLUO Section 23.05.090 provide specific requirements for seawalls, cliff retaining walls, revetments, breakwaters, groins and other shoreline protective devices. The LCP requires that they be designed by a registered civil engineer and limited to protecting existing development, public recreational areas, coastal dependent industry, and roads that provide access to public beaches and recreation areas where no alternative routes are feasible. Permits for shoreline protective devices may only be approved if: found to eliminate or mitigate impact to local sand supply; not preclude public access; be visually compatible with adjacent structures and natural features; minimize erosion impacts on adjacent properties; not adversely affect fish and wildlife; and if non-structural methods of protection have been proven to be impracticable or infeasible. LCP Policy No. 4 also provides that areas seaward of permitted shoreline protective devices shall be dedicated for public access.

Hazard Designations: In addition to the setback requirements on all development located adjacent to a coastal beach or bluff (23.04.118 discussed above), the certified LCP includes land use combining designations in areas of geologic hazard (GSA-geologic study area) and potential flood hazard (FH- Flood Hazard) to assure that development is sited and designed to minimize risks from coastal hazards. This zoning designation is applied to areas along the coast with coast bluffs and cliffs greater than 10 feet in vertical relief that are identified in the Coastal Erosion Atlas, prepared by the California State Dept. of Navigation and Ocean Development (1977).

The GSA standards are applied to all land uses for which a permit is required except: (a) single family residences, not exceeding two stories, when not constructed in conjunction with two or more residences by a single contractor or owner on a single parcel or abutting parcels, unless the site is located in an area subject to liquefaction or landslide; and (b) Alternations or additional to any structure, the value of which does not exceed 50% of the assessed value of the structure in any 12 month period, except where the site is adjacent to a coastal bluff. All applications for projects located within the GSA except those exempt are required to submit a geologic and soils report.[1]

Area Plan standards: In the North Coast Area Plan, the Bluff Erosion GSA designation is applied in much of the area. This designation requires that "development is to be located so it can withstand 75 years of bluff erosion without the need for shoreline protective structures that would substantially alter natural landforms, affect public access or impact sand movement along

[1] SLO CZLUO pg. 7-12-13

the beach."[2] Additional standards for coastal setbacks are applied to lands designated Recreation. These standards generally require a 50-ft setback that can be reduced to 25 ft if recommended by a geology report.[3] In San Simeon Acres, the bluff setback is stated as a minimum of 25 feet.[4]

In the Estero Area Plan and San Luis Bay Area Plan, the shoreline is designated GSA for Bluff Erosion and Sensitive Resource Area designation (SRA) for scenic and access concerns. Under this combining designation as well as CZLUO 23.04.118, development is to be located to withstand 75 years of bluff erosion without the need for a shoreline protective device that would substantially alter the landform, affect public access or impact sand movement.[5] In addition, the specific Cayucos Urban Area standards in the Estero Area Plan require a minimum 25-foot setback unless a geologic report required under the GSA designation indicates a larger setback is necessary to withstand 75 years of bluff erosion.

In the San Luis Bay Area Plan the standards note general direction for various areas: improvements are to be designed with severe storms in mind; unnecessary or excessive structures should be avoided on beaches; and geology reports shall be required in areas of high risk and development located consistent with identified geologic concerns.[6]

B. Background

Since certification of the SLO LCP, the Commission has focused increased attention issues related to shoreline armoring. New information about the cumulative impacts of armoring on sand supplies and shoreline recreation was developed in previous ReCAP reviews and by the Commission staff Beach and Erosion Response Task Force. In more recent reviews of development proposals and LCPs, the Commission increased attention on ensuring that new development sited on vacant lands avoids the need for future armoring, and developed stronger mitigation measures where armoring is permitted. Erosion and armoring of the shoreline is an important issue both in SLO county as well as adjacent sites within the same littoral cells. Shoreline erosion has been raised in about 14.6 % of the appeals from permit actions along this stretch of coastline including the County and cities of Pismo Beach and Grover Beach.[7] It is important that the County's LCP reflect the newer information and mitigation measures designed to avoid and minimize the impacts of armoring along the coastline.

Shoreline Characteristics: The San Luis Obispo County coast is approximately 96 miles in length, roughly half of which is sandy beach and half rocky shoreline.[8] Estero Bay and San Luis

[2] North Coast Area Plan Revised February 1994, pg.47.
[3] North Coast Area Plan Revised February 1994 , pg. 8-11
[4] North Coast Area Plan Revised February 1994 pg.8-50.
[5] Local Coastal Program Estero Area Plan,11/5/96 pg. 7-4
[6] San Luis Bay Area Plan March 1997 pg. 8-22
[7] Commission Statewide Appeals Database as of November 2000.
[8] California Department of Navigation and Ocean Development, Assessment and Atlas of Shoreline Erosion Along the California Coast, July 1977, pg. 25.

Obispo Bay mark the otherwise linear NW/SE trending coast. There are two littoral cells along the coast- the Morro Bay cell and the Santa Maria cell (See Map 7-A). There are no significant submarine canyons to define the barriers between theses two cells. These two cells are divided by Morro Bay and a rocky section of coast between Point Buchon and Point San Luis.

The main source of sediment for the Morro Bay Cell is coastal streams such as Arroyo de la Cruz, Santa Rosa Creek and Chorro Creek. The dominant direction of sediment transport is to the south. The main sediment sinks are the dunes immediately south of Piedras Blancas, the Morro Dunes and the harbor at Morro Bay. Over centuries, there have been many millions of cubic yards of sand added to the dune features. No studies were found during this project effort that quantified the modern day accretion of the dunes. However, on average, 120,000 cubic yards of sand are dredged annually from the Morro Bay Channel[9], indicating the approximate volume of material that is being transported.

It is believed if sediment in the Morro Bay Cell is not trapped in the dunes or the Bay, it is transported further south and becomes a source of sediment for the Santa Maria Cell. Approximately 125,000 cubic yards of sediment is deposited onto the Pismo/Nipomo dune system annually. Sources for this sediment include 40,000 cubic yards from streams and the remainder is projected to come from offshore sources.[10] Historically the Santa Maria River was a major source of sediment to the Santa Maria Cell and the Guadalupe Dunes. About 66% of the river drainages have been blocked by dams[11], and the sediment supply from this river has been reduced dramatically from historical levels.

The San Luis Obispo County coast is an open sea coast exposed to waves generated from a combination of both local winds and distant swells. Wave approach ranges from north-northwest to south with waves predominantly approaching from the northwest. Records from offshore wave buoys show 79.5% of wave heights recorded were between 0.76 m (2.5 ft) and 2.74 m (9 feet).[12] In large storms, wave heights reached over 6 meters (20 feet).[13] During El Niño winters, the most damaging waves approached from the west-southwest with wave heights recorded in excess of 6 m (20 feet). When these events are associated with particularly high tides and a large amount of heavy rainfall, it further enhances beach erosion. Along the west coast, large south swells significantly impact south-facing coasts by exposing these otherwise sheltered areas to direct wave attack. The communities of San Simeon, Cayucos and Avila Beach, generally sheltered by promontories from large northerly waves, are completely unprotected from large southerly waves.

The lithology along the county's coast contributes to variations in shoreline and bluff erosion. The coast is primarily composed of sedimentary rock and unconsolidated sediment (47% and

[9] Morro Bay National Estuary Program Management Conference & Staff, Turning the Tide for Morro Bay, Draft Comprehensive Conservation & Management Plan for Morro Bay, August 1999, pg. 30
[10] From John Meisenbach, 1974, Pismo State Beach and Pismo Dunes State Vehicular Recreation Area General Development Plan, California State Department of Parks and Recreation, April 1975
[11] Griggs, Gary and Lauret Savoy, eds. *Living with the California Coast*, Duke University Press, 1985, pg. 21.
[12] McClelland Engineers, Guadalupe Abalone Culture Facility Environmental Impact Report, for San Luis Obispo and Santa Barbara Counties, March 1987 pg. IV-14
[13] Gornitz, V., Beaty, T., and Daniels,R., *A Coastal Hazards Data Base for the U.S. West Coast, Oak Ridge National Laboratory*, Environmental Sciences Division, Publication No. 4590, December 1997.

38% respectively) which are typical of marine terraces and beach, dune, and alluvial deposits.[14] Gross long-term shoreline change analysis for the San Luis Obispo County coast indicates net accretion.[15] However, this conclusion may result from the large, accreting sand dune systems along the county's south coast. Erosion resistant plutonic and volcanic rocks outcrop throughout the region, but are found along less than 8% of the coast.[16] Moreover, erosion along a bluff or cliff is permanent, whereas beach erosion is dynamic. Sandy beaches are subject to erosion during the winter and accretion during the summer. Insufficient summer accretion or excess winter erosion may lead to long-term erosion.

Each of the four planning areas of the county has different shoreline characteristics and different development patterns exposed to shoreline hazards. The portion of the North Coast Area from the county line to Piedras Blancas Point is an extension of the Big Sur coastline and rocky shores, steep cliffs and pocket beaches, with some beaches backed by dunes typify the area. Much of this material has high resistence to erosion. Also, this coastline is only sparsely developed. Highway One is the structure most threatened from bluff erosion in this area. Existing bluff protection exists to protect the road from erosion at post mile 65.7.[17] In recent months, this stretch of Highway has again been threatened by erosion, and the Commission has issued emergency permits to Caltrans to address these concerns (see below for detail).

From Piedras Blancas Point south to Cambria, the shoreline is characterized by coastal terraces and bluffs behind sandy beaches and includes San Simeon State Beach. Development is generally located in San Simeon and Cambria. erosion and bluff erosion from high wave energy during storms occurs in Cambria primarily in the ocean bluff areas of West Lodge Hill and Park Hills. Eighty-six single family residential parcels exist in these areas and roughly 57 to 65 of these parcels are developed with residences. Roughly half of these (between 28 and 32) have some form of bluff protection, typically a seawall or rock revetment.

In the Estero Bay Area, Cayucos has bluffs fronting beaches and is an area where development is threatened by erosion. The waterfront area of Cayucos is built upon unconsolidated sediment of an ancient stream valley and is thus particularly vulnerable to shoreline erosion.[18] In summer, Cayucos has a wide sandy beach. During winter, the beach becomes narrow and direct wave action at the back of the bluff areas increases. Along Paso Robles Beach and Morro Strand State Beach, houses are threatened with erosion and significant amounts of riprap and shoreline protective devices have been placed.[19] Cayucos is subject to rapid bluff retreat. Over 20 feet of bluff was lost in some spots during storms in 1983 and homes which had been 30 to 40 feet from the previous bluff edge were threatened.[20]

South of Cayucos, sand blown landward by the prevailing northwest winter winds and persistent onshore summer winds produce the smaller Morro/Los Osos dune system along the Estero Bay

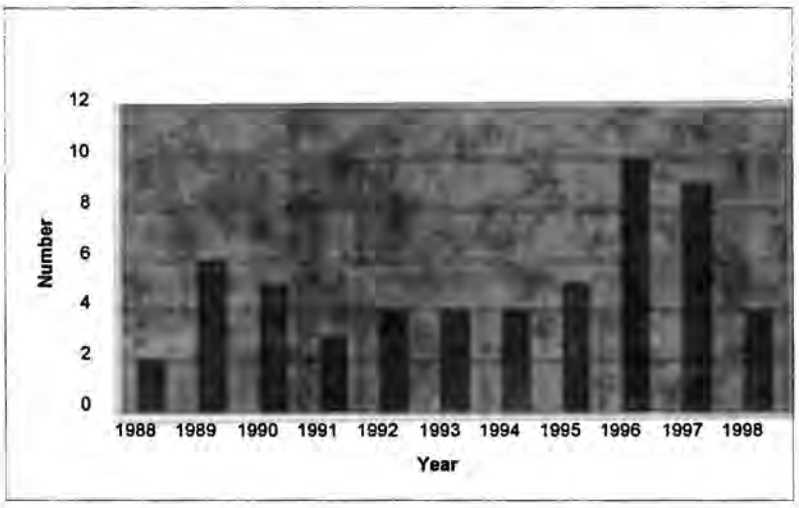
[14] Gornitz, Beaty, and Daniels, 1997
[15] Gornitz, Beaty, and Daniels, 1997
[16] Gornitz, Beaty, and Daniels, 1997
[17] CCC, Staff Recommendation North Coast Area Plan Update LCPA No. 1-97, January 12-16,1998, pg.172
[18] Parsons, Jef, "The Outer Coast: Point Pinos to Point Buchon" in *Living with the California Coast*, Gary Griggs and Lauren Savoy, eds.Duke University Press, 1985 pgs. 227-228.
[19] Parsons Pp. 224
[20] Parsons, p. 227

coastline. The second longest stretch of beach fronts the Morro Dunes extending from Cayucos southward 7.8 miles to Morro Rock. The harbor entrance interrupts the southward continuation of this beach which stretches another 7.6 km (4.6 miles) south to Montana de Oro and includes the sand spit enclosing Morro Bay and the beach fronting the Los Osos dunes. The existing power plant and harbor breakwater alter the littoral drift. South of Morro Bay, the shoreline includes Montana De Oro State Park and industrial property downcoast of Point Buchon.

In the San Luis Bay area and the South County area, the longest stretch of beach in the county fronts the Nipomo/Guadalupe Dune complex. It extends from Pismo Beach south 18.6 miles beyond the county boundary near the Santa Maria River mouth. The shoreline includes not only county area but lands within the jurisdiction of the cities of Pismo Beach and Grover Beach. From Point San Luis to the Santa Barbara County line the shoreline consists of marine terraces above beaches, long sandy shoreline and stretches of beaches backed by extensive sand dunes. Development occurs along the shores of San Luis Bay. From Fossil Point through Pismo Beach, seacliffs are subject to erosion and areas of shoreline protective devices protect development along the blufftops. The shoreline south of the city of Pismo Beach has limited development.[21]

Development Summary: Since certification in 1988, Commission records indicate that the County and the Commission have authorized 56 new or expanded shoreline protective devices as indicated in Figure 7-1 and Maps 7-B and 7-C. The County authorized 50 (89%) and the Commission authorized 6 (12%).

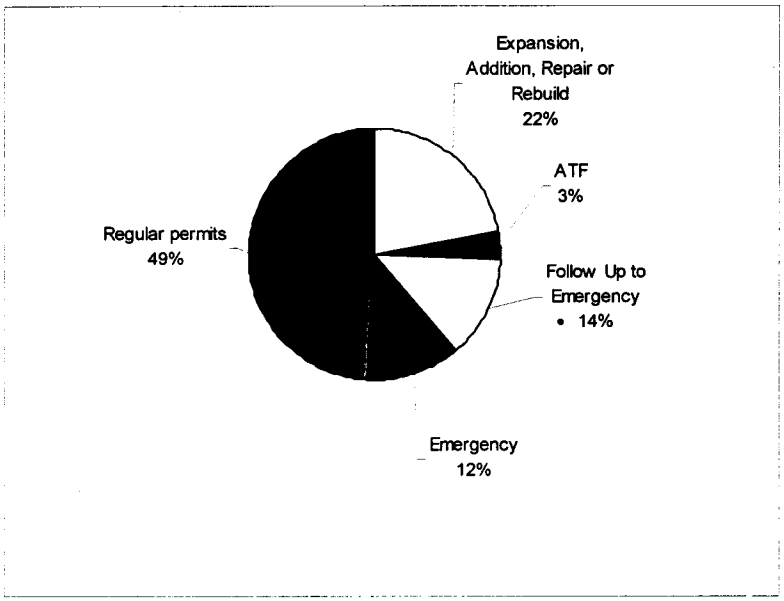
Figure 7-1 Number of SPDs authorized by CCC & County 1988-1998



[21] A. Orme, K. Mulligan, and V. Tchakerian , "Morro Bay to Gaviota" in *Living with the California Coast*, Gary Griggs and Lauret Savoy, eds.Duke University Press, 1985 pp. 231-240.

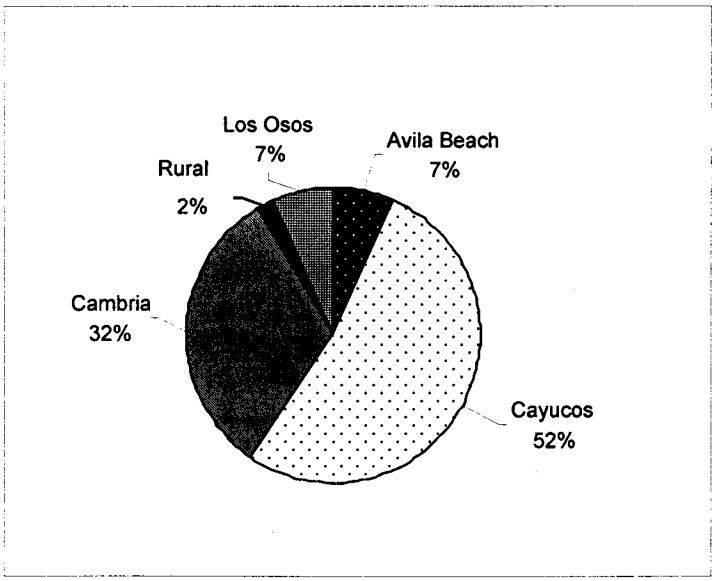
As Figure 7-2 shows, of these 56, most were new structures but approximately 22% were for repair and or expansion of existing structures. Emergency permits or permits following an emergency accounted for 26% of the authorizations.

Figure 7-2: Type of Permits, 1988-1998



The majority of armoring authorized since LCP certification (84%) has taken place in Cayucos and Cambria, as shown in Figure 7-3.

Figure 7-3: Location of Authorized SPDs 1988-1998



In addition to the shoreline armoring authorized, the large percentage of expansion and repairs to existing armoring indicates that significant shoreline armoring was put in place prior to certification of the LCP. From review of project information and background studies on the Cayucos area, it appears a substantial amount of armoring resulted from emergency actions following large storms in 1983. [22]

These 56 authorizations addressed armoring for only about 1700 to 2,700 feet of shoreline or less than 1/2 of a mile. Review of these actions indicate that riprap revetment is the most frequent type of shoreline armoring. Based on staff estimates for an average sized revetment, Commission staff estimates that since 1988 shoreline armoring has covered less than 1 acre of shoreline. [23] This is shoreline that is lost to recreational use and material lost to the littoral system. But when combined with the armoring that existed prior to LCP certification or placed without permits in emergency actions, a significant amount of shoreline in the developed areas of the county is affected by armoring.

C.1 Implementing Setback Standards.

Overview:

The LCP standards authorized the stability and structural integrity of new development primarily through the use of setbacks. CZLUO 23.04.118 requires a setback for new development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff. The setback is to be determined by one of two methods, whichever yields the greater setback. These methods are: either 1) using a stringline between adjacent structures in situations where more than half the lots within a 300 foot area are developed, or 2) using a bluff retreat measure based on geologic engineering evaluation which sets development back sufficient to withstand erosion for a period of 75 years without construction of a shoreline protective device.

LCP implementation

Structures in Setbacks: Setbacks are the principle mechanism in the LCP to attempt to avoid or minimize future shoreline armoring. Since certification of the LCP, the County has approved about 46 new structures along the immediate shoreline in the North Coast and Estero and San Luis Bay areas. In addition, there are about 22 vacant oceanfronting lots where setback standards would apply if developed in the future.

It appears the County has generally tried to assure that new development is sited to provide at least a 25-foot setback, based on geologic evaluations. For example, of 26 new shorefronting residential projects authorized in Cambria and Cayucos, development was either setback or

[22] Parsons, pg.227-228
[23] Length estimated both from FLANs where available and from GIS. Width extending onto shore estimated from average dimensions of armoring noted in FLANs.

conditioned to be setback in 19 of the cases (73%)[24]. Most also contained conditions to require drainage plans to minimize bluff erosion and requirements to blend the structures to minimize visual impacts.

As discussed below, while setbacks called for in the LCP were generally required, some of the implementing actions do not assure that future armoring will be avoided or minimized. In conjunction with expansions and remodels of existing structures and some new development, some accessory structures including stairs, architectural features of the primary structures such as bay windows and eaves, and at-grade decks were approved within the setback area. In some cases variances to setback requirements were granted, and the setback standards themselves may not be adequate to assure that no future shoreline protection devices is needed for new development.

The LCP standards allow shoreline protective devices to protect some accessory structures, not just the primary structure. CZLUO 23.05.090 provides that SPDs are allowed to protect "existing coastal development". CZ 23.04.118(c) allows fences, steps (but not decks or other solid structures) and roof and building projections up to 30 inches to encroach into the setback area. When combined with CZLUO 23.05.090 outlining when shoreline protective devices are allowed, the LCP could allow construction of armoring to protect these accessory structures in the future.

Review of County authorizations for new shore and bluff development found several cases where ancillary structures were permitted to encroach on the setback area. While the County conditioned some permits to assure that the ancillary structures excluded solid structures, it did permit at-grade decks, steps, and architectural features of the principal structure within setback areas. It also granted limited exceptions for existing nonconforming structures within setback areas.[25] It does not appear that the County has yet authorized new shoreline structures to protect such encroachments and in a few cases denied shoreline protective devices to protect ancillary facilities or required removal as a permit condition.[26] But in a few cases, it has permitted expansions and repair and maintenance of *existing* shoreline protective devices where structures such as decks are located within the setback area.[27]

Allowing encroachment of ancillary structures within setback areas may increase the possibility of future shoreline armoring unless LCP standards governing allowable bluff and shoreline protection specifically preclude armoring to protect these structures. If ancillary structures are allowed to be placed within setback areas, it can establish a pattern of siting the primary structure as close as possible to the setback line, thus discouraging more landward siting. Such patterns can increase exposure of structures to hazards and possibly result in additional demand for shoreline armoring, especially if the encroachments are architectural features of the primary structure. The Commission has found in other areas of the coast that some requests for armoring are based in part on the desire to protect these ancillary structures from erosion. [28]

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[24] In Cayucos setbacks were 25 feet; in Cambria setbacks were for 20 feet to 50 feet, depending on location.
[25] See for example 3-SLO-96-029; 3-SLO-94-062; 3-SLO-96-022 and 3-SLO-96-132, 3-SLO-94-060.
[26] 3-SLO-95-155(Fairfield); 3-SLO-96-109 (Goodin); 5-SLO-89-98 (Cavalle)
[27] 3-SLO-029(Allen/Clark) 3-SLO-93-149.
[28] California Coastal Commission, Procedural Guidance Manual: Beach Erosion and Response, December 1999, pg. 102.

A further concern about the encroachment of ancillary structures into the setback areas is that these structures could alter the overall stability of the bluff. Ancillary structures can involve site grading, irrigation, landform alteration and surface disturbance. These activities can modify erosion patterns and slope stability and accelerate the timeframe in which the primary structure will be at risk.

In order to ensure that armoring is avoided in the future, all accessory structures (e.g. decks, patios, gazebos, etc.), should be limited within setback areas and should not be considered structures for the purposes of allowing shoreline protection. Without further clarification in the CZLUO standards that shoreline protective devices will not be permitted to protect existing ancillary development, the implementation of the current LCP does not assure stability and structural integrity without the need for protective devices as required by Section 30235 and 30253 of the Coastal Act.

Alternatives exist to address accessory structures. If allowed, in addition to prohibiting solid or structural uses, the County could require that all future accessory structures be constructed in such a manner so that, once threatened, the structure is required to be relocated or removed. For existing accessory structures within the setback area, the county should consider whether the structure represents a substantial economic investment and whether relocation or removal of accessory structures is feasible and less environmentally damaging than constructing a shoreline protective device.

Variances to Setbacks: Another issue related to avoiding future shoreline armoring is the issuance of variances. The LCP CZLUO Section 23.01.045(d) requires that variance can be granted if certain findings are made:

> 1. *The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which such property is situated; and*
> 2. *There are special circumstances applicable to the property, related only to size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this title [the Coastal Zone Land Use Ordinance] would deprive the property of privileges enjoyed by other property in the vicinity that is in the same land use category; and*
> 3. *The variance does not authorize a use that is not otherwise authorized in the land use category; and*
> 4. *The variance is consistent with the provisions of the Local Coastal Program; and*
> 5. *The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.*

The County granted variances to the required blufftop setback in 4 cases of new development of residential structure in the Cayucos. While this is not a large number, it is roughly one-third (28.6%) of all new shorefront approvals or reconstructions in Cayucos [29]. The Commission overturned one of these actions on appeal (A-3-SLO-98-074 (King)). In its action, the Commission required a 25-foot minimum setback and prohibited construction of a future seawall unless the proposed project was part of an area wide solution to bluff erosion. In its action the Commission found that the variance was not consistent with the LCP and also noted that the County did not consider alternatives that could include a smaller house design and building footprint that could be sited outside the bluff setback.

In the four variances reviewed, the County record did not appear to document consideration of alternatives of reducing the allowable structural area or footprint of the structure in order to site it more landward and outside of the required setback. In some cases the structures approached the maximum square footage allowable under the zoning. Variances authorized resulted in the maximum allowable sized structures located within areas subject to high erosion hazard. This may provide a strong economic incentive for a future shoreline protective device. Also, examination of the variances indicates that some considered issues of private (not public) ocean views or existence of remnants of old prior revetments on the site in granting the variance.

Unless adequate setbacks are maintained, more property will be at risk from shoreline hazards and more and expanded shoreline armoring is likely to result. This in turn will result in greater impacts to recreational shoreline areas and scenic and visual resources along the shoreline. It is important that variances not be granted unless there are no feasible resiting or redesign alternatives that would maintain the setbacks. The actions of the County to allow variances from required setbacks without considering all feasible alternatives does not minimize risk as required by the Coastal Act. It also does not assure that development will be located in manner that avoids future construction of protective devices as required by Section 30253 of the Coastal Act.

Adequacy of Setback Standards: The LCP policies generally result in a setback of 25 feet from the edge of the bluff in areas such as Cayucos. However, while the county has in most cases required this setback as noted previously, the setback standard itself and the method for determining the setback may need to be strengthened in order to assure that development not require future armoring.

Bluff setbacks in SLO County, based on the certified LCP, have generally reflected a projected erosion rate of 2 to 3 inches per year and an economic life of a structure of 75 years. However, some geologic evaluations note erosion rates at 6 to 9 inches per year in some areas of Cayucos[30]. As the Commission found in findings on the North Coast Area Plan Update, at an average erosion rate of 2 to 3 inches/year that is estimated to occur in Cambria, a 75-year economic life of structure would result in erosion of 12.5 to 18.75 feet. At 100 years, erosion of about 17 to 25 feet is expected to occur. [31] A 6-inch/year erosion rate would necessitate a

[29] Setbacks unknown for two of the 14 actions.
[30] Parsons, pg. 224-225
[31] CCC Revsied Findings , LCP Amendment 1-97, January,1998. Page 178.

setback of 37.5 feet to protect the structure for 75 years and 50 feet to protect the structure for 100 years. Setbacks based on average annual rates also do not take into account the episodic nature of erosion. The Commission also has experience with varying setback determinations on the same properties, illustrating the inherent uncertainty in geologic setback analyses. This scientific uncertainty further underscores the need to require setbacks that will be adequate over the long run.

Also, setback standards often do not fully convey the use of a setback. The construction of ancillary structures in the setback can compound this misunderstanding. A setback on an eroding coastal bluff is an estimate of the amount of land that can be lost over time, and not jeopardize the stability of development on the site. Unlike inland property, this is not a "backyard" that will always be there; it is a temporary buffer between development and the erosive forces of the ocean. Since erosion can be both episodic and chronic, sudden and unexpected bluff retreat should be expected within the setback area.

Consistency Analysis: Since certification of the LCP the Commission has continued to develop new information on the management of coastal shoreline hazards and the effects of shoreline armoring. The determination of "adequate" setback distances, relying greatly upon historic erosion information has not always resulted in siting of new development to avoid future armoring. Several geologic evaluations in support of county authorizations noted significant bluff failures in the Cayucos area in 1986 and 1992 and 1994. One report noted that the Studio Drive bluffs eroded 20 feet from 1982-1987 due to the 1983-1984 storm season[32]. The 1986 storm year saw significant erosion and as a result much emergency armoring was placed. Ongoing gradual erosion as well as greater erosion during storm events would argue for setbacks greater than the 25 feet minimum established in the LCP.

Reviews of County authorizations also show the inadequacy of a 25-ft. setback in avoiding future armoring. For example, staff reviewed cases where the geologic evaluation in support of a proposed engineered shoreline protective device indicated that the structure was needed to protect an existing residence located 20 feet from the bluff. In another case such shoreline protective device was to protect a residence 25 feet from the bluff. [33] While the County has generally been consistent in implementing its LCP setback policies, it appears the standards may need to be improved in order to assure stability and structural integrity consistent with the Coastal Act Section 30253.

The County LCP Policy # 1 mirrors the Coastal Act policy objectives, stating that "Along the shoreline new development (with the exception of coastal dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure". The Coastal Act section 30253(2) says new development may not "in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." Shoreline protective devices can and do substantially alter natural landforms by greatly reducing erosion of

[32] See 4-SLO-91-049 (Rogers)
[33] For example, see 3-SLO-97-052 (Wheat); 3-SLO-96-086.

the bluffs behind the device and accelerating erosion of the beach seaward of the device and of the bluffs on either side of the device. In addition, construction of shoreline protective devices can involve substantial grading of the bluff.

In order to achieve the Coastal Act and LCP policy objectives and avoid future armoring standards should ensure that new development would not need a shoreline protective device for the duration of its economic life. While the Coastal Act does not define the economic lifetime of a structure, prior studies by the Commission[34] have shown that structures will generally remain in good condition with regular repair and maintenance for at least 75 years after construction. And, even when a full 75-year setback is used as the county has done in implementing its LCP, the value of coastal land and the lack of alternative coastal locations makes it unlikely that structures along the coast will be retired after 75 years or the completion of their theoretical economic life. The 75-year economic life may not reflect the actual lifetime of a structure or the length of time a coastal site will be occupied. All along the coast the Commission has reviewed major residential renovation projects on existing structures which have the effect of extending the economic life of the structure. When structures are setback using a 75-year economic life, they can be expected to "outlive" their setbacks and eventually require armoring for long-term protection from erosion.

If new development continues to be permitted in high hazard areas, setbacks should be sufficient enough to allow for natural processes to continue without the adverse impacts that would be associated with the introduction of hard protective devices. If an economic lifetime of 75 years is resulting in additional shoreline armoring, as it appears is happening in some areas of San Luis Obispo County, standards for setbacks should be increased. By instituting a setback based upon a greater economic lifetime and greater episodic erosion events, shoreline armoring will be unnecessary with the removal of these structures at the end of their economic lives. If erosion in San Luis Obispo County averages 3 inches/ year to 6 inches/year over 100 years this would result in 25- 50 feet of shoreline eroded. If potential large erosion events were taken into account a setback much larger than 25 feet would be needed to avoid future armoring. Further, these erosion rates do not reflect consideration of the impacts of an accelerated rate of sea level rise that would warrant inclusion of the additional safety factor into the determination of any setback.

The existing LCP as well as proposed updated Estero Area Plan continues the determination of setbacks based on a 75-year economic life of structures or 25 feet minimum. Review of the permits authorized indicates that almost all proposals and conditions placed on development adhere to the minimum setback. As discussed, this may not avoid future shoreline armoring consistent with the Coastal Act. The siting of new development to avoid exposure to hazards is critical. Once built, pressures may emerge to protect these structures even though they were constructed after the Coastal Act prohibition on new development requiring shoreline protection was in place. This is particularly true where geologic studies underestimated the geological risk when the structure was first approved. Therefore, in order to reduce construction of shoreline protective devices new development must be sited so that it will not be subject to future hazards from erosion. The use of greater setbacks, an increase in the estimated economic life of a

[34] CCC Beach Erosion and Response and CCC, ReCAP, Monterey Bay Region Monterey.

protective devices new development must be sited so that it will not be subject to future hazards from erosion. The use of greater setbacks, an increase in the estimated economic life of a structure and consideration of reduced standards for maximum structural area and lot coverage to allow more flexibility is siting development combine to help avoid the need for future armoring.

Preliminary Policy Alternatives :

There are a variety of measures that the County could incorporate into its LCP to avoid or minimize future armoring:

Preliminary Recommendation 7.1: Modify CZLUO 23.05.090(a) to define more specifically what existing structures are for purpose of allowing future armoring. For example, as follows: "*existing coastal development" for purposes of this section shall consist only of the principle structure and shall not include accessory or ancillary structures such as garages, decks, steps, eaves, landscaping, etc. No shoreline protection device shall* be *allowed for the sole purpose of protecting the accessory structure(s).*

Preliminary Recommendation 7.2: Revise Coastal Policy 6 to change setbacks to require that they be based on a projected 100-year economic life.

Preliminary Recommendation 7.3: Revise CZLUO 23.04.118 : Eliminate the stringline method for determining setbacks, section (a). Modify section (b) to base setback on a projected 100 year economic life of structure. Add requirement for determining a safety factor either as a multiplier or as a set distance. For example, if the rate of erosion is determined to be 3 inches per year, the economic life of the structure is 100 years, and the safety factor is 1.2, then the minimum setback is 30 feet (3 in. x 100 yrs. = 300 in., 300 in. = 25 feet, 25 feet x 1.2 = 30 feet). If the safety factor were a set distance of, say, 10 feet, and the rate of erosion and economic life of the structure were the same as in the preceding example, then the setback would be 35 feet. The safety factor should be based on shoreline change data and the size or magnitude of extreme erosion events. This setback distance establishes the likely future landward retreat of the shoreline and established the future shoreline condition that should be the basis for the new structure.

Preliminary Recommendation 7.4: Modify section (c) to eliminate part (3) and to provide: "The minimum setback requirements of this section do not apply to the following *provided the structures are designed to be removed or relocated in the event of threat from erosion.*

Preliminary Recommendation 7.5: Reexamine regional average annual erosion rates. Recent studies of the area for individual shoreline protection have shown that the estimate that the shoreline will retreat only 25 feet during the next 75 years is often low. The minimum setback distances use this value for siting new development and the minimum distance should be revised to better reflect current shoreline changes.

C. 2. Avoiding or Mitigating the Cumulative Effects of Seawall Development in Existing Developed Areas.

Overview: The shoreline in the urbanized areas of Cayucos and Cambria is already affected by the presence of shoreline structures. The implementation of the LCP should maximize protection of the remaining unarmored sections of shoreline and address resiting structures outside of hazard areas upon redevelopment.

Since certification, the major issue raised in post certification actions related to shoreline hazards has been shoreline and bluff erosion in the urbanized areas of Cayucos and Cambria. Both of these areas have significant shoreline development and the urbanized shoreline of Cayucos has a large number of lots armored with shoreline protective devices. But there are few remaining vacant parcels in Cayucos. Many of the structures are older and redevelopment and reconstruction is likely to continue to occur. Of the shoreline residential structures authorized since certification in the Cayucos area at least 25 % were expansions and renovations. Although some of the armoring in these developed areas occurred prior to the Coastal Act, much of the development has occurred during heavy storm years, particularly 1982-1983 El Nino year, prior to certification of the LCP. As indicated previously, of the actions by the county and the commission authorizing shoreline protective devices, Cayucos and Cambria accounted for more than 80% of all armoring authorized.

LCP Implementation: LCP Policy 1 and the CZLUO allow shoreline protective devices only to protect existing development. Review of County authorizations noted a few cases where shoreline protective devices were authorized to protect new development being proposed on vacant infill lands. In these cases the County interpreted the LCP as allowing such armoring or permitted a variance. Review of County actions indicates that in some cases the armoring was allowed in order to provide the residence with siting and private views comparable to neighboring properties. And, some armoring was determined to be infill between existing revetments and infill armoring was permitted to minimize erosion from existing seawall. In other cases the county found that small old remnant revetments allowed replacement and expansion of a shoreline protective device accompanying development on a vacant parcel.[35]

> Infill development as applied in past Commission permit actions referred generally to one or two lots, vacant or made vacant through demolition, between existing developed lots and served with existing infrastructure.

Consistency Analysis: As the Commission found in the King Appeal where a revetment was denied as part of construction of a new residence, the LCP Hazards Policy 1 and CZLUO 25.05.090 and Coastal Act allow shoreline protective devices only to protect existing development, not new development on vacant lots. Also, the Commission noted that some of the existing armoring based upon infill determinations, roughly in excess of 20 seawalls, was

[35] A-3-SLO-98-074 (King).

illegally constructed in response to large storms in 1983. While subsequent permits were received for some walls, enforcement actions remained outstanding on many.

Many of the area's vacant parcels within urban areas consist of infill development.[36] Without standards to site new development as far landward as possible and standards to assure continual setback on vacant or redeveloped sites, areas of existing development will eventually be built-out based on site development as near to the shoreline as possible. Under this scenario, infill projects allowed in high hazard areas based upon historical land use decisions will eventually require the same level of shoreline armoring as their neighbors.

The County's proposed Estero Area Plan Update suggests changes to the LCP to allow construction of new development and shoreline protective devices on vacant or developed lots in infill situations- that is, where seawalls exist on both sides of the proposed development. Given the pattern of existing vacant lots and the potential for redevelopment of older homes, implementation of such an infill policy would result in the remainder of the Cayucos shoreline and a portion of the Cambria shoreline being armored. The implementation of this policy would also be complicated by the fact that many shoreline protective devices may have been installed or expanded in emergency conditions and/or without proper permits, albeit some time ago. Given the history of shoreline structure development in Cayucos, and the need to plan for redevelopment in this area, a program should be developed to comprehensive assess existing seawalls and determine the appropriate planning standards for this area over the long run. For example, in the King action, the Commission discussed the possibility of allowing a future seawall, if accomplished within a comprehensive planning and redevelopment context that accounted for shoreline structures and resource impacts in the surrounding vicinity.

The actions by the County to allow construction of shoreline protective devices in conjunction with new development on vacant lots, even in infill situations, is not consistent with the policies of the Coastal Act to avoid or minimize shoreline protective devices. However, since most of the shoreline area in Cayucos and Cambria are already development and only scattered vacant lots remain, minimizing future armoring must be accomplished primarily through resiting of development as older structures redevelop.

Redevelopment of Existing Developed Shoreline Areas

As noted in the previous discussion, structures along the shorefront are likely to continue to undergo reconstruction and renovation which extends the economic life of the structure. The LCP standards CZLUO 23.07.082 provides that alterations and additions are not exempt from GSA combining district standards on blufftop sites. Therefore, under the certified LCP, demolition and reconstruction of structures along the bluffs and shoreline would require a coastal permit and could be reviewed for alternatives to avoid the construction or continued maintenance of shoreline armoring.

[36] Infill development as applied in past Commission permit actions referred generally to one or two lots, vacant or made vacant through demolition, between existing developed lots and served with existing infrastructure.

Section 30253 of the Coastal Act includes provisions to minimize risks and to assure that new development not require construction of protective devices that would substantially alter natural landforms along bluffs or cliffs. Section 30235 allows shoreline armoring when required to protect existing development and when designed to eliminate or mitigate adverse impacts. The determination of whether armoring is required to protect existing development is usually a case by case determination. With a few exceptions, as long as structures are located in areas subject to wave hazard or bluff erosion, under Section 30235, past permit actions in the project area show that there is a likelihood they will eventually be armored.

In areas such as Cayucos that are substantially built out, the greatest opportunity to avoid or minimize additional armoring is in cases where such major demolition and redevelopment is likely to occur. However, the Commission recognizes that even with a comprehensive policy to enforce greater setbacks on redevelopment, planned retreat is not assured, since property owners could choose to renovate structures in place instead of demolishing them, thus avoiding more inland resiting.

However, as properties are developed or redeveloped on a lot by lot basis, it is likely that more requests for variances to setback and shoreline protective device standards will occur. In review of county actions, staff found comments from owners of older Cayucos houses in support of variance requests which noted the desire when they rebuild to also "move forward" to maximize the potential of the lot.[37] In order to avoid armoring of the shoreline or reclaim shoreline area as properties recycle in existing developed areas, it may be necessary to address the problems on an area-wide basis for equity concerns and to achieve resiting of structures outside of hazardous areas.

A comprehensive area wide approach to minimizing shoreline armoring could be based on identifying shoreline areas with similar geologic conditions; orientation to wave energy and erosion potential. An area wide solution could incorporate a package of measures that would apply to all properties. These could include: revised setback requirements, revised site coverage maximums to facilitate resiting and resizing upon redevelopment, along with removal of existing armoring; reduction of building footprints while maintaining height restrictions to protect visual resources; mitigation programs to minimize erosion from inland drainage; mitigation programs to pay for beach nourishment where appropriate, consideration of access and recreation needs and even possible acquisition of areas subject to high hazards. Such an approach implemented through the LCP Area Plans could not only provide greater equity to all properties within the area but could minimize the potential for variances and continued armoring based on infill.

In its action on the LCPA 1-97 on the North Coast Area Plan Update, as well as in permit and appeal actions, the Commission has continued to recommend developed of such area-specific solutions in order to carry out Coastal Act policies. Unless a comprehensive approach is taken to management of the shoreline in Cayucos, as well as other high erosion hazard areas along the county's coastline, the shoreline in the urbanized areas as well as in places along scenic Highway 1 will likely be fully armored. Such actions cumulatively will result in substantial impacts to shoreline resources and public access in consistent with the goals of the Coastal Act.

[37] 3-SLO-97-129

Preliminary Policy Alternatives:

Preliminary Recommendation 7.6: Add new Policy standards Prohibit new subdivisions or lot splits or lot legalization that create new lots in high wave hazard areas.

Preliminary Recommendation 7.7: Strengthen Measures to ensure no future armoring Modify standards for new development on vacant lots or for demolition and rebuilding of structures subject to beach or cliff erosion, inundation, wave uprush, etc. in areas subject to hazards. The modified standards should require as a condition of new development that the applicant assumes the risk of building in the hazardous areas without assurances that future armoring will be allowed. This could be implemented by modifying and expanding the GSA combining designation to identify specific areas where no future shoreline armoring will be permitted.

Preliminary Recommendation 7.8: Adopt as a program in the LCP: Implement an area wide shoreline erosion and bluff retreat management plan for Cayucos and Cambria

As part of this plan, specific sections of these coastline areas should be assessed based on factors including, but not be limited to, geology, wave conditions, and sand budget. The management plans should include, but not be limited to:

- Standard engineering plans defining the specific types of armoring which would be acceptable for specific areas, and where appropriate, identification of the types of armoring that should never be considered for certain areas.

- Standard alternatives feasibility analysis worksheet that would be a required element of all hazard response projects and that would require applicants to go through a series of steps to assure that hard protective devices were only created as a last resort. The analysis may require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, etc.), an examination of all other options (removal, relocation, "do nothing", sand replenishment, etc.), and a conclusion that a shoreline protective device would be the "best option" (most protective of the public trust, best long term solution, etc.) for the subject site.

- Standard conditions and monitoring requirements that may include discussion of mechanisms to ensure shoreline protection effectiveness and public safety with provisions for the removal of ineffective or hazardous protective structures as well as programs to address beach replenishment and sand supply.

C.3. Mitigation of Access Impacts from Shoreline Armoring

Overview: The shoreline of the project area is a source of public access and recreational opportunities for residents of and visitors to one of the state's most scenic areas. As noted elsewhere in this report, it is also a source of significant revenues from tourism to the local economy. The development of shoreline protective devices can result in loss of public access by directly affecting public tidelands. The mitigation for development of shoreline protective devices, if not implemented, can also result in a loss of public access.

The LCP Hazard policy 4, implemented as a standard ensures protection of public access. It requires, in part, that where a shoreline protective device is necessary, siting shall not preclude public access to an along the shore and shall be sited to minimize visual impacts, erosive impacts on adjacent unprotected property, encroachment onto the beach and to provide public overlooks where feasible and safe. The area seaward of the protective devices shall be dedicated for lateral public access. The CZLUO 23.04.420 requires that access be provided in new development between the first public road and the sea.

LCP Implementation: Where shoreline protective devices have been authorized the County has generally been consistent in mitigating access impacts by requiring dedications of lateral access easements (OTDs). Of the 56 approvals of shoreline protective devices in the project area, 15 cases reviewed had requirements for access mitigation, all for lateral access.

However in many cases, shoreline protective devices were authorized to protect private property but appeared to be located on state lands, including state park lands.[38] In a few cases, the County required a redesign to place armoring on private property but since no determinations of public ownership was made, it is likely many of the walls encroached on public lands and many of the OTDs may have been recorded on public lands. While the County has been consistent in carrying out the mitigation required in the LCP, if such OTDs are located on what is already public land, it may not fully mitigate the impacts from placement of revetments that occupy shoreline area that would otherwise be available for public recreation. The Commission recognizes that documenting public ownership of lands can be time consuming for individual lots. Consideration of the location of public shoreline lands could be another aspect that could be considered in an area wide plan for managing shoreline development suggested in recommendation 7-8. To assure mitigation is carried out, the County should accept any remaining shoreline easements not yet accepted, to assure that mitigation is fully realized and not lost.

Another challenge facing the county is to assure that once accepted, the easement areas dedicated as mitigation remain free of future encroachments including expansions of shoreline protective devices. According to reports of the staff of the statewide Access program, instances have been found where shoreline protective devices have encroached into existing easement areas, especially as a result of emergency actions. [39] Such encroachments would result in additional loss of shoreline recreation area and would be inconsistent with the policies of the Coastal Act

[38] For example, 9-SLO-88-101; 3-SLO-052 (Wheat); 3-SLO-94-042 (Peltzer/Pace); 5-SLO-89-098.
[39] (Locklin,L. CCC Public Access Program Manager, pers. communication).

that public access be maximized and that development not interfere with the public right of access.

The LCP CZLUO 23.04.420 provides for CCC review of recorded documents. However, those documents are frequently just legal descriptions and do not contain accurate maps of the easement location on the property. Monitoring of the location of easements in order to assure the proposed development will not be sited in an area reserved for public access will prevent loss of access mitigation. While the LCP requires filing of the location of access easements in conjunction with Plot Plans, it does not require it in conjunction with Minor Use Permits. The shoreline protective devices reviewed were almost all processed as Minor Use Permits.

Also, while the County required lateral access easements, in at least two cases language of the conditions required the easement "if applicable to the site". Such conditions do not assure that mitigation will be implemented and as such the access policies of the LCP are not being carried out consistent with the Coastal Act.

Preliminary Policy Alternatives:

Preliminary Recommendation 7.9: Modify CZLUO 23.04.420 (g) to ensure that the easements are protected against further encroachment by requiring that the easements be mapped in detail in conjunction with recordation.

Preliminary Recommendation 7.10: Modify CZLUO 23.02.033 ((a)(8) Public Access Locations. Applications for projects between the ocean and the nearest public road shall include the locations of nearest public access points to the project *and the mapped locations of any existing public access easements or recorded offers to dedicate public access easements.*

Preliminary Recommendation 7.11: Revise condition language for requiring access easements to clarify that phrases such as "if applicable" should not be part of access requirements.

C.4. Emergency Armoring of the Shoreline

Overview: Shoreline protective devices can be engineered and designed to be the minimum necessary to address hazards, to be visually unobtrusive as possible and to be located as far landward as possible to minimize access impacts. Yet, if shoreline protective devices are placed during emergency conditions, the County often lacks the opportunity to consider alternative design and siting criteria.

LCP Implementation: The LCP and Section 30624 of the Coastal Act allow an emergency permit to be issued when immediate action is required to prevent or mitigate loss or damage to life, health, property or essential public services. Certainly, rapid response is of particular importance in an emergency situation. However, because the regular permitting process is

bypassed, an emergency structure can be constructed with minimal engineering review and often no review for alternatives or mitigation of impacts on coastal resources. Under current County provisions, CZLUO 23.03.045(b)(6) applicants for emergency authorizations are notified and agree with the requirement that a regular permit application be submitted within 30 days of the issuance of the emergency permit to retain the structure.

As the Commission found in previous Commission evaluation of shoreline armoring:[40]

> *significant cumulative impacts to shoreline beach resources have occurred as a result of the application of the policies and procedures for emergency permitting. There are three aspects of the problems of emergency permitting of SPDs: (1) applicants often fail to submit follow-up permits; (2) once constructed, few if any emergency structures are removed; and (3) the emergency permit process leads to incremental, haphazard armoring of the coast without mitigation for the impacts to sand supply. For all practical purposes, if armoring is installed in emergencies, it remains in place, often with sub-standard engineering review and without mitigation for impacts to coastal resources.*

Areas of SLO County have been subject to significant damages from large storms in 1983, 1995, and 1997-98. For example, in the winter of 1997-98 erosion threatened Highway 1 in the Piedras Blancas area, storm damage occurred at Port San Luis and erosion occurred along the shoreline in the City of Pismo Beach. State Parks at Pismo Beach SB and Montana de Oro were affected by flooding and erosion of roads. Erosion of stairs and a ramp occurred at Hearst Memorial State Beach Pier. [41] During this period, the Commission authorized at least 3 emergency permits for shoreline armoring. Review of County actions shows 4 emergency authorizations and 8 subsequent authorizations for projects which were follow up permits for armoring that was already placed during an emergency. Emergency shoreline armoring appears to have occurred in earlier storm years, prior to the certification of the LCP. Commission staff reviews indicate that significant emergency armoring in Cayucos was placed as a result of major storm events in 1983-1984.

The Commission's enforcement experience shows that assuring that the emergency armoring is removed, or a follow up permit is obtained which addresses alternatives and mitigation of impacts, remains a significant problem. Of the 56 statewide enforcement cases identified in SLO since 1980, close to half (46%) involved shoreline armoring. And of those, 80% involve expired emergency permits for riprap for which no follow-up permit was obtained. In addition, since 1988, about 8 of the 56 applications for shoreline armoring (14%) were noted as after-the-fact permits (ATFs) to permit emergency armoring. It is unclear how much armoring remains unpermitted.

Consistency Analysis: Review of these actions also shows that the armoring placed in an emergency usually remains, although in most cases mitigation is required. Given the current

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[40] California Coastal Commission, *Regional Cumulative Assessment Project, Findings and Recommendations, Santa Monica Mountains/Malibu Area*, June 1999, pg. 79.

[41] CCC, Coastal Zone Damage Index- Storm Event Winter 1998; California Dept. of Parks and Recreation Storm Damage Report, Updates Through February 16,1998; CCC, Coastal Impacts of the 1997-1998 El Nino and Predictions for La Nina, August 28, 1998.

provisions of the Coastal Act, the emergency authorization of armoring can be expected to continue. El Niño conditions are expected to occur every 2-7 years[42]; with the high erosion in some developed areas of the county, the demand for emergency permits is likely to continue. As more of the shoreline is armored, the demand will increase for maintaining or expanding existing armoring. While developing guidance for emergency permitting to reinforce the temporary nature of the development is possible, in most cases even placement of riprap and rock intended to be temporary is rarely removed.

Commission staff did not have data to evaluate the effects of County enforcement of emergency follow-up permits. But given the Commission's experience with emergency armoring, it is likely to be a continuing area of concern. In addition to continued attention in monitoring emergency permits, steps can be taken to minimize the likelihood of future enforcement cases. For example, procedures can be established for coordination with property owners and for field inspections before and after storm seasons. Through preparation of shoreline management plans, the County can provide advance information on the location of easement areas to assure emergency structures are not occupying public easements; provide for inspections to identify shoreline protective structures built without permits; and assure emergency structures are removed or regular permit follow-up is completed within the 30 day period.

Preliminary Policy Alternatives:

Preliminary Recommendation 7.12: As part of shoreline management plans noted in Preliminary Recommendation 7.7, include procedures to address emergency armoring. Include procedures for coordination with property owners and for field inspections before and after storm seasons. Include guidance for types of temporary structures preferred and a provision for removal of temporary structures if no follow up permit is filed within 30 days.

C.5. Mitigating the Impacts of Armoring Pacific Coast Highway.

Overview: Highway One is the major access road to and along the coast in much of the county and is adjacent to coastal bluffs at various locations. It is a major recreational feature that provides spectacular ocean views and access to public beaches and the Big Sur Coast. However, the maintenance of this important piece of public infrastructure has not been without cost to coastal resources. In places in the North Coast Area the erosion progressed such that the bluff edge was only about two feet from the highway edge. Since certification one permit has been issued for rock armoring to protect the roadway, for armoring 200 feet in length and 25 feet high. The Commission found in that action that additional areas of the highway could be threatened in the future, it conditioned the permit to require consideration for relocation of Highway one in order to avoid additional shoreline armoring.

While the protection of Highway One in an emergency is an important objective, impacts to shoreline resources also need to be addressed. The Commission has found that in other areas of

[42] Cayan, Daniel R., "Weather Effects of an El Nino Along the California Coast." In *Proceedings of a Workshop of the Potential Coastal Impacts of an El Nino Winter*. Scripps Institution of Oceanography Reference Series No.97-10. September 1997. Page 4.

the coastline, emergency armoring to protect Highway One is frequently not temporary and often not removed. And often there is no adequate consideration of alternatives or mitigation for impacts to sand supply and public access as a result of these projects.

LCP Implementation: Since certification of the LCP the County and Commission had approved, until recently, only one permit authorizing Caltrans to place rock at a point along the highway. [43] The County authorized the armoring noting that a Commission permit was required but did not appear to evaluate any alternatives to avoid armoring.

The Commission in its review of the permit conditioned the permit to ensure that permit was valid only until August 2002, with two possible extensions to 2007 and 2012, and required that Caltrans investigate alternatives to assure that shoreline armoring is the least feasible environmentally damaging alternative. These include different methods for bluff protection and potential road realignment to assure that the road is safe from erosion with future armoring for at least 100 years, as with residential structures.

Recently, three more road failures occurred north of Cambria near Arroyo del Oso. In two cases Caltrans was able to install temporary bypasses so that armoring was not required. But, in one spot, a bypass was not possible due to potential impacts on the creek. As a result the Commission granted emergency authorization for riprap. The Commission approved this emergency action because Caltrans is making progress in studying the realignment, consistent with the previous action. A request for extension of the 1997 permit is likely.

The Commission also adopted a modification to the NCAP in 1998 that would address the need to realign Highway One, rather than allow future shoreline protection along this scenic stretch of coast. The County has recently acknowledged this need in the revised Project Description for the NCAP (5-10).

Consistency Analysis: Coastal Act 32035 allows shoreline armoring to protect Highway One where there is no other feasible means of protecting the existing structure. But this must be viewed in conjunction with the whole of the Coastal Act, specifically, section 30211 that requires that development not interfere with public access, section 30240 that requires that environmentally sensitive habitat be protected and section 3025q that requires protection of scenic and visual resources. As noted previously, shoreline armoring can impact shoreline resources by encroaching onto recreational shoreline areas, by altering sand movement, by affecting sensitive shoreline habitat areas and impacting the scenic views from the shoreline. The LCP in Hazards Policy 4 already contains requirements to assure that armoring is permitted only where no less environmentally damaging alternative exists. Other standards in the CZLUO require setbacks of development to avoid future armoring. In order to carry out the LCP consistent with the Coastal Act, the County should expand policy standards to require consideration of relocation alternatives such as those specified in the Commission's review of the Caltrans permit.

[43] 3-SLO-97-39

Preliminary Policy Alternatives:

Preliminary Recommendation 7.13: Policy 6 should clarify that Highway 1 must comply with setback standards similar to other existing structures, establishing setbacks based on assuring highway will be safe from erosion without need for armoring for 100 years. Policy 4 should be expanded to clarify that consideration of alternatives should include possible relocation of the structure to be protected, including Highway 1.

Preliminary Recommendation 7.14: Amend NCAP to Provide Realignment of Highway One to Avoid Shoreline Protection

C.6 Improved Geotechnical Analysis

Overview: The LCP provides that in bluff areas subject to the GSA combining designation, setbacks and siting alternatives are determined based on a geologic evaluation by a Certified Engineering Geologist. The contents of the required site stability evaluation report are specified in CZLUO section 23.04.118 as follows:

> *The report shall accompany the land use permit application, and shall contain the following information:*
>
> *(1) Historic, current and foreseeable cliff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs, where available, and possible changes in shore configuration and sand transport.*
>
> *(2) Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site and the proposed development.*
>
> *(3) Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features such as bedding, joints, and faults.*
>
> *(4) Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.*
>
> *(5) Wave and tidal action, including effects of marine erosion on seacliffs.*
>
> *(6) Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of sewage effluent and irrigation water to the groundwater system; alterations in surface drainage).*
>
> *(7) Potential effects of seismic forces resulting from a maximum credible earthquake.*

(8) Effects of the proposed development including sighting [sic] and design of structures, septic system, landscaping, drainage, and grading, and impacts of construction activity on the stability of the site and adjacent area.

(9) Potential erodibility of the site and mitigation measures proposed to minimize erosion problems during and after construction. Such measures may include but are not limited to landscaping and drainage design.

(10) The area of demonstration of stability shall include the base, face, and top of all bluffs and cliffs. The extent of the bluff top considered should include the area between the face of the bluff and a line described on the bluff top by the intersection of a plane inclined a 20-1/4 degree angle from the horizontal passing through the toe of the bluff or cliff, or 50 feet inland from the edge of the cliff or bluff, whichever is greater.

(11) Any other factors that may affect slope stability.

These requirements are extensive and ensure that significant geologic information is developed as part of a coastal permit application. Recently, as a result of the experience with shoreline erosion along the coast, the Commission has been identifying more comprehensive and specific data needs in order to assure adequate consideration of site stability and alternatives. For example, the Commission has recently identified guidance conducting assessments of slope stability in geotechnical reports. This guidance suggests that in addition to the standards currently in the LCP, that the application requirements be expanded to provide a more quantitative analysis. For example, regarding slope stability, the contents for (4) and (11) above could specify that the likelihood of landslides should be addressed through quantitative slope stability analyses prepared and certified by a licensed geologist (RG) or Certified Engineering Geologist (CEG). The analyses should demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the earthquake-loaded condition. These factors of safety should be demonstrable for the useful economic life of the structure. In other words, not only should the setback line corresponding to a 1.5 factor of safety be established for the present condition, but a similar line should be established representing the location behind which a 1.5 factor of safety can be assured following 100 years of bluff erosion and retreat.

Also, the specifics for undertaking slope stability analyses can be specified, for example:

1) All analyses should be undertaken through cross-sections oriented perpendicular to the slope. Analyses should include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.

2) The effects of earthquakes on slope stability should be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.15g. If it can be demonstrated that the Maximum Credible Earthquake at the site would result in a horizontal ground acceleration at the site less than .15g, the lower value, supported by an appropriate attenuation model, may be used.

3) All slope analyses should be performed using geotechnical parameters (friction angle, cohesion, and unit weight) determined from undisturbed samples collected at the site. The choice of geotechnical parameters for each geologic unit examined shall be supported by direct shear tests, triaxial shear test, or literature references.

4) All slope stability analyses should be undertaken with potentiometric surfaces for the highest potential groundwater conditions.

5) If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes should be provided, and geotechnical parameters for each orientation shall be supported by reference to pertinent direct sheer tests, triaxial shear test, or literature.

6) When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered homogenous, rotational failure surfaces should be sought through a critical failure search routine to analyze the factor of safety along postulated critical failure surfaces.

7) If anisotropic conditions are assumed for units containing critical failure surfaces determined above, and when planes of weakness dip in the same direction as the slope, factors of safety for translational failure surfaces also should be calculated. The use of a block failure model should be supported by geologic evidence for anisotropy in rock or soil strength. Geotechnical parameters for such weak surfaces should be supported through direct shear tests, triaxial shear test, or literature references.

In updating the LCP Area Plans, the County should consider updating the requirements for undertaking geological evaluations. In addition, guidance developed by the State Department of Conservation, including "Guidelines for Engineering Geologic Reports"[44] and for sites that lie within an Alquist-Priolo Zone (i.e., near an active fault), guidelines for a fault-hazard report, could be considered.[45] The County should consider update its filing requirements for geotechnical evaluations in order to continue to reflect more current knowledge and to ensure adequate site stability in conformity with the Coastal Act.

Preliminary Policy Alternatives:

Preliminary Recommendation 7.15: Modify CZLUO section 23.04.118 to update required contents of geologic evaluation reports within the GSA combining designation.

[44] http://www.dca.ca.gov/geology/publications/report_guidelines/engineering_geologic.html
[45] http://www.dca.ca.gov/geology/publications/report_guidelines/geologic.html

C. 7 Mitigating Scenic and Visual Resources

LCP policy 4 requires that shoreline protective devices minimize impacts to visual resources. Of the 56 authorizations for shoreline protective devices, roughly 14% raised scenic and visual issues. Many of the actions authorizing shoreline protective device contained conditions designed to assure that materials and engineering design of the armoring minimize visual impacts by blending the structure with the surrounding area. But by altering the natural landform, and developing piecemeal types of shoreline protective devices, armoring of the coast affects the scenic and visual experience of recreationists on adjacent beaches, public parks and coastal waters. Avoiding or minimizing armoring of the shoreline as discussed in the policy alternatives in section C.2. of this chapter can assure that landform impacts are avoided or mitigated consistent with Coastal Act section 30251.

Improving consistency in the types of materials used in shoreline armoring and especially in emergency actions and repair and maintenance can help minimize visual impacts. As the Commission found in prior studies, a consistent regional approach for areas prone to erosion can help minimze impacts. For example, in a case study in the Monterey Bay area, the Commission found that,

> *The existing situation in Live Oak, however, presents a piecemeal confusion of protective measures. From an engineering perspective, the weakest points in shoreline armoring are normally the ends and the junctions between different styles of protection (rock adjacent to concrete to gunite, for example). Such ends and junctions occur frequently in the Live Oak area, and while no engineering evaluation has been prepared, the potential for weaknesses in the protection would be greatly reduced by a regional approach to controlling erosion in the area. In addition, the general look and aesthetic of the area would change if adjoining properties had shoreline protection efforts with a similar visual effect...*
>
> *Without a regional overview, the piecemeal approach to shoreline protective devices will continue to impact shoreline processes and resources. The attempt to minimize coastal hazards with various devices (seawalls and numerous rip-rap structures), combined with naturally occurring coastal processes, requires a closer examination of their cumulative impacts. Piecemeal solutions to coastal erosion problems are not generally effective and have the potential to create further problems. Often overlooked are the regional effects of such shoreline protection. Where a regional coastal erosion problem exists, a regional solution should be developed and implemented..*[46]

In review of armoring along Cayucos, staff noted that a variety of armoring occurs, for example, riprap, gunnite, cement block, and wood retaining walls.

[46] CCC, ReCAP Pilot Project, Findings and Recommendations: Monterey Bay Region, September 1995, pg.25.

Preliminary Policy Alternatives:

Preliminary Recommendation 7.16: The area wide shoreline retreat and management plan suggested for Cayucos and Cambria in Preliminary Recommendation 7-7 could also incorporate guidelines for identifying specific types of armoring that would be acceptable for specific areas to minimize visual impacts from armoring along the shoreline and water recreation areas.

C.8 Seismic and Landslide Hazards.

Through extensive research and modeling the California Conservation Division of Mines and Geology has classified the San Luis Obispo County Coast as a relatively low seismic hazard area in this highly seismic state[47].

The LCP Geologic Study Area (GSA) Combining District provides that special site specific evaluation occur to determine suitability of the site in areas of high risk potential outside urban reserve and moderate to high risk potential within urban reserve lines. CZLOU ordinance 23.07.080 provides that standards are applied to areas along the coast with coastal bluffs and cliffs greater than 10 feet in vertical relief that are identified in the Coastal Erosion Atlas, prepared by California DNOD (1977). In accordance with Hazards Policy No. 7 of the LCP the GSA combining district requires site evaluation addressing surface fault rupture, seismic shaking, liquefaction or landslide.

Seismic hazard issues were raised in less than 2% of the overall permits acted on by the county. And the 44 cases raising seismic hazards represented only 16% of the 273 permits that raised hazard issues. Almost half were located in existing developed areas of either Cambria or Cayucos. Only two, one in Avila Beach, were subdivisions. [48] Of the 44 cases, 18 (41%) were conditioned to require submittal of geologic evaluation on site suitability. However, as the Commission found in LCPA 1-97, since LCP certification the State Geologist has designated the San Simeon-Hosgri fault as an active fault, a Earthquake Fault Zone subject to the Alquist Priolo Act, and there may be additional active faults that are part of the Arroyo Laguna Fault which are not yet mapped.

While the County's implementation of LCP policies do not appear to raise significant concerns regarding conformance with Section 30253, the Commission has noted that the policies and designation themselves may not reflect current up to date information on the presence of seismic hazards. The LCP should be modified to update seismic mapping and identification, that the GSA should be revised and applied to new faults identified and traces of faults pending complete geologic investigation. New development should be restricted in the Earthquake Fault Zones.

[47] http://www.consrv.ca.gov/dmg/rghm/a-p/mapidx/county.htm#and
[48] 3-SLO-97-022; 3-SLO-93-124

Preliminary Policy Alternatives:

Preliminary Recommendation 7.17: Modify LCP to update seismic mapping and identification and extend GSA CD to new faults identified and traces of faults in order to require complete geologic investigation pending new development. New development should be restricted in the Special Studies Zones resulting from updated mapping.

Flooding Hazards

The coastal zone is subject not only to flooding along streams and rivers, but also wave induced flooding along the coast. Inundation potential is greatest at the mouth of a stream/river where development may be subject to both river flooding and wave flooding during storms incurring heavy rain and large waves. Stream/river flooding is dependent on rainfall, whereas coastal wave inundation may occur through a variety of mechanisms i.e. wind forcing, storm occurrence, or tsunami. When extreme tides coincide with large waves, the severity of wave inundation increases. Although flood hazard is mainly associated with inundation and water damage, destruction to development may result from large debris and felled trees along wooded streams carried by flooding streams and ramming into structures. The same effect occurs along the shoreline with waves ramming debris into coastal structures.

Only 45 of the County actions raised issues related to flooding, a third in Oceano and about 40% in Cambria. Two subdivisions occurred which raised flood hazard issues, one in Avila and one in Oceano .[49] LCP Amendment 3-92 approved by the Commission (in part 1993 and in part 1994) adopted revised FEMA 1985 100 year frequency flood area and coastal high hazard area maps and automatically incorporated any updates to the FEMA flood plain maps. However, the FH Combining designation on the certified LUE maps did not automatically change and would require LCP amendments as need arises. In approving the amendment the CCC found this consistent with Coastal Act.

Since certification of the LCP, the Commission documented flooding problems in review of the North Coast Area update LCP Amendment 1-97, noting that the West Village area of Cambria has flooded several times, on average once every four to five years. Other areas of the North Coast also had flooding problems. The Commission found in its action that neither the NCAP nor the general LCP provided adequate policies for minimizing flooding. [50] The Flood Hazard Combining Designation (CZLUO 23.07.066) in general provides submittal of drainage plans and requires, in certain areas, that structures will not be located in the floodway or be subject to inundation of a 100-year storm. Construction standards also apply to new structures or an increase of 65 percent in square footage of existing structures that address protection of structures and prohibits construction which limits the capacity of the floodway. The ground floor of new structures are required to elevated above the 100-year storm flood profile and non residential construction is required to be elevated and floodproofed as certified by a registered civil engineer. Storage of certain materials is prohibited. The Commission found that no new

[49] 3-SLO-93-033; 4-SLO-91-080
[50] CCC, Revised Findings, North Coast Area Plan Update LCPA 1-97, January, 1998, pg.181.

development expect for public services, in the mapped flood hazard area should be approved until a comprehensive flood analysis and management plan for the mapped hazard area is certified and implemented. The purpose of the plan should be to limit flooding of the West Village. In other areas of North Coast, the Commission found that the LCP which prohibited new development in the 100-year floodplain in rural areas was consistent with the Coastal Act but that the FH Combining designation should be expanded to Arroyo del Puerto, Oak Knoll, Little Pico, Villa Creek and Ellysly Creek.

Therefore, while the implementation of coastal permits does not indicate problems carrying out the LCP policies, the Commission has found that the LCP policies themselves are lacking a comprehensive framework for flood management. Development and implementation of comprehensive flood management plans should be certified and implemented in order to conform to Section 30253(1).

Preliminary Policy Alternatives:

Preliminary Recommendation 7.18: Expand FH Designation to Arroyo del Puerto, Oak Knoll, Little Pico, Villa Creek and Ellysly Creek.

Preliminary Recommendation 7.19: For areas subject to FH Combining designation, in Cambria, no new development except public services shall be approved until the County has certified and implemented a flood analysis and management plan for the West Village.

Fire Hazards

Only 82 of the County actions raised issues related to fire hazards, half of them evenly divided between Los Osos and Cayucos. Of these the County required submittal of Fire Safety Plan/Letters in 19 of them (23%). Only one subdivision in Avila Beach (3-SLO-97-022) and one lot line adjustment (3-SLO-93-124) raised this issue. While the County's implementation of LCP policies does not appear to raise significant concerns regarding conformance with Section 30253, the LCP may need to be strengthened to reflect stronger protections for habitat and recreation areas from fire hazard management measures. In recent years the Commission has seen an increase in impacts from fuel modification encroachments into sensitive habitat and park and recreation areas. This can be a particular problem at the urban/rural interface where the required area of vegetation clearance around structures can be significant, often 200 feet or more. The potential impacts to sensitive habitat from such vegetation clearance can be significant as detailed in Chapter 4. The County should consider improvements to measures to avoid or mitigate such encroachments.

Preliminary Policy Alternatives:

Preliminary Recommendation 7.20: Modify the CZLUO to provide standards that require siting new development to ensure that any required vegetation clearance will be done fully on the private property and will not encroach on any public lands or sensitive habitat areas. And, if development cannot be sited to avoid encroachments, to require a mitigation in-lieu fee to support habitat restoration programs.

CHAPTER 8: SCENIC AND VISUAL RESOURCES

A. Policy Framework

The Coastal Act requires protection of scenic and visual qualities of coastal areas as a resource of public importance. New development must be sited and designed to protect views to and along the ocean and scenic coastal areas. Development must also minimize landform alteration, be compatible with the character of its surroundings and, where feasible, restore and enhance visual quality in visually degraded areas. In highly scenic areas, new development is required to be subordinate to its setting. The Coastal Act also requires that Highway One remain a scenic, two-lane road through the rural areas of the state. The Coastal Act also specifically protects the character of special coastal communities that may have unique characteristics or are popular visitor destination points (Sections 30251, 30253).

Following the Coastal Act, the primary goals of the San Luis Obispo LCP visual protection policies are to protect unique landscapes, restore visually degraded areas, site new development in such a way as to direct it out of public view corridors and minimize visual intrusions, minimize landform alterations and blend contours with natural terrain, preserve native vegetation, encourage the undergrounding of public utilities, limit the size and placement of commercial signs, prohibit development on sandy beaches and dunes, and limit development on bluff faces. The policies are variously implemented through standards, and the four Area Plans. The LCP also contains standards to address development in special communities such as Cayucos and Cambria. The Sensitive Resource Area (SRA) Combining Designation provides for additional review of proposed development when applied to highly scenic areas.

B. Background

The coastal viewsheds in San Luis Obispo County are dramatic and diverse. The scenic values of the County's coast cannot be overstated, from the almost aerial views of the ocean from the southern reaches of the Big Sur Coast, to the vivid working landscapes of the Hearst Ranch and the Chorro Valley, to the wind-sculpted sand dunes of Oso Flaco.

In recognition of the tremendous scenic value of the SLO coastal zone, Highway One from the Monterey County Line to the city of San Luis Obispo is designated as a State Scenic Highway -- a special status given in September of 1999. Caltrans estimates that more than 3 million visitors travel this stretch of the coast each year for recreational purposes. Tourism, which is directly dependent on scenic qualities and distinctive community character, is an important sector of the County's economy, producing in excess of $855 million in 1998. [1]

Along with spectacular views, Highway One also provides the primary means of access to San Luis Obispo's distinctive coastal communities, including the incorporated cities of Morro Bay,

[1] California Trade and Commerce Agency, Economic Impacts of Tourism by County, 1992-1998.

Pismo Beach, and Grover Beach, and the smaller, unincorporated communities, such as Avila Beach, Cambria, San Simeon and Cayucos and Oceano. The unincorporated towns each have distinctive characters, and several are recognized in the LCP as Special Communities under the Coastal Act or as containing special Small Scale Neighborhoods.

Not all of the scenic areas covered by the LCP are visually accessible from Highway One, however. Montana de Oro State Park in Los Osos, East-West Ranch, Avila Beach and the Irish Hills, Oso Flaco Lake Preserve and the Oceano Dunes are examples of some of the more popular coastal recreation areas that are primarily accessible by public trails or rural roads.

Some highly scenic areas within the coastal zone have been placed in public ownership since the 1988 certification of the LCP and are thus protected from future development. San Carpoforo Ranch north of San Simeon, East-West Ranch in Cambria, Estero Bluffs near Cayucos, several parcels within the Morro Estuary Greenbelt, and the Guadalupe-Nipomo Mobil Coastal Preserve are notable examples of visually compelling properties that are now protected by public acquisition and/or conservation easements.

Area Plans

NORTH COAST

In this area, the public has tremendous views of the Santa Lucia Mountains to the east from Highway One. The northernmost portion of the planning area includes the Big Sur coast, ending at San Carpoforo Beach, the southern gateway to Big Sur. San Carpoforo Ranch marks the abrupt transition from the steep cliffs of Big Sur to the broad coastal plateau that characterizes much of the Hearst Ranch. Cattle grazing and occasional row crops are the predominant land use here, and the views from the beaches to the ridgetops are pristine and uninterrupted.

Around Cambria, the southernmost stand of native Monterey Pines still flourishes, adding a distinct visual landscape contrasting with surrounding grazing lands. These pines are some of the healthiest in the state where the population has been ravaged by pitch canker. The coastal waters and beaches of San Luis also contribute to the high scenic value of the County. Marine waters as far south as Santa Rosa Creek off the coast of Cambria are part of the Monterey National Marine Sanctuary.[2] In addition, in the past year President Clinton designated the offshore rocks of California as a National Monuments, including the sea stacks and distinctive geologic features of the San Luis Obispo coastline.

Cambria, San Simeon Village, San Simeon Acres and the tiny artist's colony of Harmony are the four communities in this planning area. All but Harmony have portions designated in the LCP as Special Communities because of their unique architecture, historic value and scenic visual resources.

[2] As discussed in Chapter 4, the high quality of habitat in the North Coast streams and beaches has allowed them to be included as critical habitat for the threatened red-legged frog, steelhead trout and western snowy plover.

The village of old San Simeon, 16 miles from the County line, features a cluster of traditional adobe buildings, a public fishing pier, a restored school house and other historic structures. The small-scale Spanish architecture structures are set well back from the road, and visually complement surrounding landforms and vegetation. The Sebastian Store, a State Historic Landmark built in the 1860s, is barely visible through the trees and accessible via San Simeon Road. The recently refurbished Pacific Schoolhouse, built in 1881, sits on a grassy knoll just east of the store. Signs directing the public to both the historical monument and W.R. Hearst Memorial State Beach picnic area are located adjacent to the village.

Between the village of Old San Simeon and the residential/tourist serving town of San Simeon Acres is an 8-mile stretch of open grazing lands and coastal terrace with continuous ocean and mountain views. San Simeon Acres is a resort-commercial and residential area between Old San Simeon Village and Cambria. For motorists driving south on Highway One from Big Sur, the viewshed through this stretch is dominated by motels, restaurants and retail shops. The backdrop of rolling hills and open grazing lands define the viewshed to the east, and the Pacific Ocean to the west.

The town of Cambria is situated along a two-mile stretch of Highway One, with commercial facilities on the east side of the highway, and residential development nestled well into the forested hillside to the west. This residential area is substantially more visible to motorists travelling north than south. Non conforming signs and poorly screened commercial service areas detract from the Highway One visual experience in this area.

The residents of Cambria have preserved many of the historic homes, including the Squibb House, the Hull House and the Old Santa Rosa Chapel. A current effort is underway to publicly purchase and restore the historic Bianchini house in the heart of the East Village. The County Planning Department and the North Coast Advisory Council have undertaken an effort to create a design plan for both the commercial and residential areas of Cambria, in order to provide streetscapes and a greater level of specificity for design features of new development.

ESTERO

Scenic and visual resources in the Chorro Valley include views of agricultural landscapes, mostly seasonal row crops and flowers. The most vivid and significant natural landforms in this area include the string of distinct granite hills known as the Morros: Morro Rock, Black Hill, Cerro Cabrillo, Hollister Peak, Cerro Romauldo, Chumash Peak, Bishop Peak, Cerro San Luis and Islay Hill. Hollister, Bishop and Morro Rock are the most visually prominent from Highway One. Their fissured granite walls and craggy outlines silhouetted against the sky are one of the most memorable sites along the entire route.

Visual intrusions from development have thus far been limited in this area. Significant new development is planned, though, for the agricultural fields around the base of Hollister Peak. Morro Rock, Black Hill, and portions of Cerro Cabrillo are within Morro Bay State Park and are thus protected as permanent open space.

The unincorporated communities of Cayucos and Los Osos and the city of Morro Bay are located in this planning area. Cayucos is a small town of about 2,500 residents, and urban development here has been relatively compact. Numerous two- and three-story homes on the steep hillsides to the east are extremely visible, and residential development likely will continue to degrade the scenic qualities there. But the commercial district and older residences on the west side of Cayucos are smaller scale and add to the unique community character of the town. An increase in the number of demolitions and replacement of older homes with substantially larger structures led the community to adopt Small Scale Design Neighborhood standards in 1995.

An important recent acquisition by California Department of Parks and Recreation was the 4-mile stretch of coastal wetlands, sandy beaches and open grasslands known as Estero Bluffs just upcoast of Cayucos, thus protecting views to and along this stretch in perpetuity. Recent removal of a partially completed single family structure and undergrounding of overhead utility lines in this area has further restored degraded views to and from the property.

The Estero Planning Area's scenic beauty is not confined to the Highway One corridor. Adjacent to the coastal community of Los Osos, Montana de Oro State Park contains the most concentrated inventory of visual resources in the Estero. While not visible from Highway One, the park itself provides 8,000 acres of pristine coastal terraces, wide sandy beaches, majestic cliffs, streams, canyons and countless vista points along the numerous hiking/equestrian and bicycle trails. Some residential development outside of the urban area of Los Osos has occurred along Pecho Road – the scenic entryway into the park.

SAN LUIS BAY

The San Luis Bay planning area has the least amount of public viewing opportunities, but also some of the greatest scenic resources. Montana de Oro ends at the Irish Hills, a little-known area of ranches and scattered residences with some of the most extensive stands of oak woodlands in the County. The active nearby ports of Morro Bay and Port San Luis, and to a lesser extent, San Simeon Cove, make this stretch of coastline a popular area for boaters. In this area, the Diablo Canyon power plant property commands some of the most spectacular, rugged, pristine coastline in the County. However, security and public health concerns have necessitated strict security measures that have limited public access to this area. Significantly, actions by the Regional Water Quality Control Board in October 2000 in conjunction with review of Diablo Canyon's thermal discharge to San Luis Bay has lead to further protection of visual resources in this area through provision of conservation easements.

The majority of the population in this planning area lives in the incorporated cities of Arroyo Grande, Pismo Beach and Grover Beach. The towns of Avila Beach and Oceano are included in the LCP. Oceano is primarily a rural, agricultural residential community. Only about one-fifth of the community is located in the coastal zone, and the bulk of that is taken up by the County airport, a county park and Pismo State Park. The balance is industrial, commercial and multi-family, with some single-family dwelling. Coastal views within Oceano are predominantly enjoyed by local residents, as visitor-serving uses in this area are limited.

Avila Beach is currently in the process of rebuilding. The Avila Specific Plan, approved by the Commission in November 2000, seeks to maintain public views of the coast from the reconstructed town by limiting building heights and restricting commercial and residential development to the inland side of Front Street park at confluence of creek. Removal of the UNOCAL tank farm has restored an important inland degraded viewshed.

SOUTH COAST

The South Coast planning area contains the least amount of coastline of any of the area plans, but its scenic resources are no less important than the others. Most however, are not visible from highly traveled public roads, and are best appreciated from backroads, public trails or coastal waters. Its dominant visual feature is the 20,000 acre Guadalupe - Nipomo Dunes Complex, including the Guadalupe Nipomo Dunes National Wildlife Refuge, Pismo Dunes Natural Preserve, the Oceano Dunes State Vehicular Recreation Area, the Oso Flaco Lake Natural Area, Dune Lakes, Black Lake Canyon and the Santa Maria River mouth. Most of these areas are already in public ownership.

The Guadalupe Nipomo Dune complex, acquired and managed by the Nature Conservancy prior to transferring it to public ownership, is the largest, most ecologically diverse and most frequently visited dune area in the state of California. It hosts an unusual mix of dune, scrub, grassland and wetland natural communities, and it supports an unusually high number of listed plant and animal species, including western snowy plovers and least terns.

A walk along the Oso Flaco boardwalk offers views of vegetated dunes covered with a variety of native wildflowers in season. Wind-sculpted dunes towering 500 feet high in the Wildlife refuge are some of the tallest in the state. Distant views of productive agricultural farmlands create a scenic buffer between the natural area and the urban areas of Arroyo Grande and Oceano to the north and east. Although the dunes themselves are protected, there are a few large parcels still in private ownership immediately adjacent to the complex. The main threat to the overall integrity of the scenic resources in this area is potential development of agricultural lands outside the coastal zone.

C. Preliminary Implementation Issues

C.1. Protection of Scenic Viewsheds and Rural Landscapes

Overview: As discussed in the Background section, San Luis Obispo County has many significant scenic viewsheds and rural landscapes to be protected. Since certification of the LCP in 1988 public appreciation of these visual resources has grown considerably. As mentioned, Highway One from the Monterey County line to San Luis Obispo was designated as a State Scenic Highway in 1999. As discussed in Chapter 2 Development and Chapter 5 Agriculture, cumulative development patterns in rural areas have become evident since 1988 as well. These patterns have increased public awareness and concern about incremental erosion of scenic rural

landscapes, as residential and other development within public viewsheds has been approved. Based on the reported coastal permit activity by the County, between 1988 and 1998 more than 40 projects were approved in either the Estero or North Coast planning areas that raised visual impact concerns. Finally, new technologies and social trends such as the use of cellular phones has brought new challenges to viewshed protection.

A great deal also has been learned about the importance of alternative site selection and maintaining mitigation screening for new development. A significant visual intrusion along the North Coast, for example, is the State Parks Visitor Center for Hearst Castle, which can be seen for miles as one makes their way north on Highway One from Cambria. While this facility is a major visitor-serving development in the coastal zone, its large buildings also present a distinct interruption on the rural grazing landscape of the North Coast. Since LCP certification, Commission and County experience with such facilities, or other development that cannot be sited out of public view, has highlighted the importance of initial alternative siting evaluations, development designs, and visual impact mitigation and monitoring.[3]

Increased rural development has also raised the spectre of increasingly cluttered views from public lands, particularly as recreation and public access activities have increased. Although emphasis has always been placed on protecting views west of Highway One and to the shoreline, rural development pressures along the Highway One corridor and elsewhere have also underscored the importance of protecting the significant viewsheds to east and inland of the Highway, including views from Highway 46. This is particularly true for places like San Luis Obispo County, which has highly scenic rural landscapes throughout the coastal zone. Indeed, some of the most spectacular views from Highway One pullouts are to the south, north, and east, not only to the west and the ocean. Acquisitions of public land also may have created new opportunities for public recreation and the need to protect viewsheds perhaps as yet under appreciated because of their previous inaccessibility. Finally, coupled with increasing recreation and boating activities in coastal waters, new and potential development along coastal ridgelines and in undeveloped rural areas has brought protection of public views from State waters to the fore.

LCP Implementation: The visual resource policies of the LCP require protection of major public view corridors, scenic vistas, unusual landforms, native vegetation and special communities. LCP Visual Policies 1, 2, 4 and 5 state:

> *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, protected, and in visually degraded areas restored where feasible.*
>
> *Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new*

[3] The original Visitor Center was approved by the Commission before certification of the SLO County LCP. Since certification, the County has approved a major expansion of the facility (the IMAX theatre) (see 3-SLO-93-030).

> *development should utilize slope created "pockets" to shield development and minimize visual intrusion.*
>
> *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited.*
>
> *Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve consistent grade and natural appearance.*

Visual intrusions from new development, off-site signs, landform alteration, and overhead utilities are also regulated by the CZLUO. In general the standards are strong, and require the minimization of the visual impacts of development wherever feasible and possible. As discussed below, although the existing policies and ordinances of the LCP are, for the most part, adequate to implement the intent of the Coastal Act in most cases, there have been some cases where visual resources have not been adequately preserved, generally due to less-than-full application of the requirements in the initial siting and design phases, or incomplete implementation of LCP policies in the monitoring and compliance phases. There are at least four areas of concern for improving LCP implementation of the visual resource protection goals of the Coastal Act for scenic areas and rural landscapes.

Siting and Design of New Development to Protect Visual Resources: The LCP requires new development to be sited to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development should emphasize locations not visible from major public view corridors and utilize "pockets" to shield development and minimize visual intrusion. New development that cannot be sited outside of public view corridors is to be screened utilizing native vegetation. LCP policies also require structures to be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. When the County determines that development cannot feasibly be placed in an area outside of a public viewshed, mitigation measures to reduce visual impacts, such as vegetative screening, are generally recommended.

Along the coast the Coastal Act goal of siting and design of structures to minimize visual impacts can often conflict with an applicant's objective to maximize ocean views. It may also be difficult to site some structures out of the public viewshed, particularly on smaller, sometimes non-conforming parcels that may have little opportunity for screening behind existing natural landforms. As discussed in the Agriculture chapter, the LCP needs to be updated to allow for more comprehensive evaluation and policy approaches for addressing proposed development in rural agricultural landscapes. The County has recently had to address such situations north of

Cambria and near Piedras Blancas where residential development has been proposed. Currently, two appeals of approved residential projects are pending in front of the Commission.[4]

The North Coast and Estero Planning Areas are most at risk for losing scenic resources due to the cumulative impacts of new development. Nowhere is this threat so acutely felt as along the Harmony Coast between Cayucos and Cambria. Many of the parcels in this area are currently for sale and there are multiple underlying legal lots capable of supporting residential development. Several highly visible new roads have been graded in the area within the last few years, providing access to underlying parcels. Development of these parcels could have a dramatic effect on the visual integrity of the area (see Chapters 2 and 5 for more detail).

As mentioned, the Coastal Act and LCP policies protect public views to and along the coast, including views of the coast from state waters, which are public lands. In highly scenic, rural areas adjacent to both public roads and coastal waters, it may be difficult to permit new development without degrading views from one or the other. The cumulative impacts of new development on the Harmony Coast could potentially degrade both. For example, in the Morro Bay Limited case, in which the Commission approved, on appeal, eight residential lots along the ridgeline of the Harmony coast, the Commission grappled with the balance between allowing reasonable residential use, and protecting views from all public viewing areas. While the Commission conditioned the project to locate the building envelopes further away from the bluffs, and with strict scenic protection performance standards, the residential development that may result will need to be carefully designed to prevent impacts to public views from the ocean; the access road may be highly visible from Highway One.

A number of other projects have been approved by the Commission and by the County since LCP certification that underscore the importance of both siting evaluation and mitigation of impacts that can't be avoided through siting. In the Estero planning area, the Commission and the County have approved a public shooting range and various expansions of the facility on a 432-acre site in the scenic Highway One corridor between Morro Bay and San Luis Obispo. Over time, the facility has grown to become a significant adverse impact on this viewshed. In coastal development permit 4-87-13, the Commission approved the facility, proposed by the Department of Fish and Game, finding that "[t]he facility will be highly visible from the highway, but will not preclude any public views to the ocean." To protect the viewshed, the Commission required landscaping to screen the facility. Unfortunately, as discussed below, the landscaping has not performed as well as expected.

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[4] One appeal is of a May 2000, Board of Supervisor's approval of a CDP and a variance from Planning Area Visibility Standards to allow construction of a 9,654 sf single family residence with a 600 sf guest house with a 480 sf detached garage and a 3,000 sf barn on a 78-acre parcel in the Rural Lands category located adjacent to Highway One in North Cambria. (A-3-SLO-00-118/D990019V). The applicant's agent requested the variance "to afford the owner a reasonable view of the ocean." Even with landscape screening and berming, much of the complex will still be visible from Highway One, San Simeon State Park and Moonstone Beach. At 3,000 feet in length, 30' high and 8' wide, the berms themselves could be considered visual intrusions due to their mass. Granting of variances for viewshed policies could undermine the intent of the policies, resulting in the cumulative degradation of public views. This, in turn, provides the basis for further variances, thus perpetuating the cycle. Roughly 10% of the actions reported to the Commission that were identified as raising scenic resource issues contained variances from viewshed protection policies, which could result development inconsistent with the Coastal Act.

Since approval of the initial shooting range facility, various expansions have been approved that have aggravated the original visual impact, allowed the construction of a clubhouse, outbuildings, care-takers' unit and concessionaire activity for a gun club/shooting range in the vicinity of the project originally approved by the Commission (see D910242D and 3-SLO-97-162). Like the original project, this project was in the Highway One viewshed and within the Agricultural land use category. The County staff analysis identified numerous appropriate building sites on site that would have minimized or even eliminated visual impacts, but the siting as proposed by the applicant was approved. The County also noted the original Commission approval of the shooting range facility that created the initial impact, and the findings observed how the project would not be inconsistent with the character of the immediate neighborhood because it would "be located among[st] the existing facility buildings and landscape, and will be screened with additional screening landscape." As recently as 1997, the County approved another expansion of the facility, again finding the project to be consistent with LCP policies because of its proximity to existing similar uses (3-SLO-97-162; see below for detail). This series of projects illustrates how important initial visual analyses and siting decisions (in this case, those of the Commission) are in setting the visual resource context for future project evaluations and long-run viewshed protection. As discussed below, though, it also illustrates how the LCP could be used to mitigate for past decisions, and to minimize the increase in impacts through expanded facilities.

Another example of visually intrusive development that might have been sited and/or designed to avoid viewshed impacts is an 8,200 sf, 2-story single family residence in Rural Lands land use category north of Cambria. (D940210P/ 3-SLO-97-147). Driving south on Highway One from San Simeon, a large, white house is clearly visible above the tree line to the east. This home is part of a larger compound including two guesthouses, a swimming pool, pool house, tennis court, gazebo and 3,000 sf barn. Although county staff worked with the applicant to reduce the size of the primary residence from 12,000 sf to 8,200 sf, this was not sufficient to eliminate its visibility from Highway One. No mention of alternative building sites was made in the staff report, although alternate access routes were discussed.

The approval of the road that would have required a culvert and fill material of a creek, and created a highly visible road cut up the face of the slope was appealable to the Commission. The potential impacts to ESHA resulting from wetland fill to construct the driveway made that portion of the project appealable, but the lack of any SRA combining designation or other basis for appeal under the Coastal Act over the actual building site precluded the Commission from considering most of the project *de novo*. Through the appeal process the Commission was able to work with applicant and the County to eliminate this intrusive road component by pursuing access from Cambria Pines Road to the east of the site; therefore the Commission found that the project no longer raised a substantial issue. It was unfortunate, though that the Commission was not able to consider the entire project to address visual and other sensitive resource issues.[5]

[5] At the time of the appeal it was thought that the residential portion of the project was not within sensitive Monterey Pine forest habitat because it was not mapped as such on the LCP combining designation maps. Since that time, though, it has become apparent that the entire project site should probably have been treated as within ESHA, based

This project illustrates a number of concerns. First, the project was not relocated out of the viewshed, or designed so that it would not be visible from public areas, both of which were probably feasible. Numerous other sites could have been selected, and a single-story residence would have been much less visible, if at all. Second, it points to the need to re-evaluate and expand the placement of SRA combining designations, and specifically the need to create a scenic SRA that would provide enhanced protection of visual resources. Evaluating land resources from a strictly scenic perspective, and applying a Scenic SRA accordingly would afford projects in these areas a higher level of review and a greater degree of protection based solely upon their scenic qualities.[6] For staff seeking to draft conditions or make recommendations consistent with LCP policies, it may be helpful to specify precisely what scenic resources are being protected and the basis for the designation.[7]

Finally, protection of scenic landscapes requires that no new development potential be created that would impact sensitive views. Thus, it is important to not subdivide or allow lot-line adjustments that would create new sensitive viewshed parcels. For example, the Cabrillo Associates subdivision in Los Osos approved by the County in 1998 would have created 41 new residential lots (see Chapter 2 for detail). In addition to the other issues raised by this project, including impacts to ESHA and urban services concerns, these lots would be created in a highly scenic area, visible from many public viewing areas of the Morro Bay area. In the local review, the Planning Commission had approved an alternative that would have kept new residential development at a lower elevation on the hillside; however, the Board of Supervisors approved the alternative with increased impacts to visual resources. On appeal, the Commission denied the subdivision in June of 2000; the project is currently being reconsidered.

Condition Compliance: A number of projects that would otherwise be inconsistent with LCP scenic resource protection policies have been approved through the addition of extensive permit conditions designed to mitigate visual impacts. According to reported coastal development permits, at least 58 different approvals were conditioned to address the need for visual screening. Many other projects were conditioned to address structural design and color palates.[8] In some cases, though, these mitigations have proven to be inadequate to protect visual resources, or have never been implemented as project conditions during or after construction. Vegetative screening and berming are the most common mitigation requirements for projects that staff determines cannot feasibly be relocated out of the viewshed. Monitoring and reporting designed to assure the effectiveness of such mitigation, though, appears to be done infrequently. Without such

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on actual resources on the ground. This could have formed the basis for appeal jurisdiction under the SLO LCP. This problem is discussed in the ESHA chapter.

[6] The County findings include the following statement: "The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the SRA designation." This suggests that the SRA is not serving the full purpose of resource protection as envisioned by the LCP currently, and that is should be strengthened.

[7] Another project where visual impacts were created but perhaps not fully addressed is the expansion of the San Luis Bay Inn in Avila Beach (3-SLO-92-123). Although this project was a visitor-serving development, it also presents distinct impacts on scenic views at San Luis Bay. The hotel sits above Avila on the hillside and its pinkish façade dominants the public views to the north. The project was conditioned to be the same color as the existing structure and the parking structure was to be muted gray or brown. The project also received an exception to the standard height limits in the LCP.

[8] Many of these conditioned projects were for projects in urban areas like Cambria and Cayucos.

monitoring, there could be a steady intrusion of built structures into scenic viewsheds. In addition, these structures may themselves become the justification for additional development through findings of "compatibility with surrounding uses."

For instance, the expansion of a large aquaculture facility was permitted in 1989 (5-SLO-89-099/D870182D) on the west side of Highway One, north of the town of Cayucos. Although some of the development was located out of viewshed due to natural topography, vegetative screening was required as a permit condition to minimize unavoidable visual impacts. Permit conditions required monitoring with a five-year review to assure compliance. The findings state that visual impacts will be screened from view by substantial landscaping. No record of any monitoring or follow-up reports are have been found on file with the County, though, and views of the development, while distant, remain. Coincidentally, the Commission is currently considering a residential project on a parcel adjacent to the aquaculture facility that presents visual impact issues (Schneider A-3-SLO-00-040).

The shooting range permits discussed above also illustrate the importance of condition compliance and monitoring. The Commission's original approval of a facility on the site was conditioned with a landscaping plan to screen the facility from Highway One. Similarly, the County's permits for expansions of the facility included mitigation such as color selection and native tree plantings, with requirements to maintain the trees, submit annual reports to the County evaluating the status of the trees' health for three years, and a requirement to replace all dead or unhealthy plants. Unfortunately, the majority of the trees have failed to thrive, no reports are currently on file, and it appears that the required conditions, beyond initial planting, have not been implemented. As a result, the modular buildings, road, parking area and residence are highly visible and quite intrusive upon the otherwise natural surroundings. Nor is it clear whether the Commission's original screening condition is being met.

In the County's 1997 approval of another expansion of the existing use, staff found the project to be consistent with LCP policies because of its proximity to existing similar uses and recommended approval with conditions. These included berming to shield the parking area and shooting bays, vegetating cut slopes and planting the berms with native plants to break up the structure of the berms themselves, and an approved landscape plan using native shrubs and trees, with ongoing monitoring and annual reporting by a qualified professional for a period of five years or until the County determines that the intent of the mitigation to screen the development has been satisfied. Although the staff report did not specifically address the lack of condition compliance of the previous phase of the development, it did note that the original project had not received County review, and had come under criticism for lack of adequate landscaping.

In terms of condition compliance for the recent expansions, though, the approved landscape plans show a mixture, density and placement of vegetation that does not appear to have been implemented on site. Planting has been sparse and inadequate to screen the development. Approximately half of the caged trees have died, and the remainder have failed to thrive and remain well below the two-foot height of the protective tubes. The applicant has not submitted any of the required annual reports to the County to date. The result is a highly visible landform alteration in a critical viewshed area that does not appear to be in compliance with Visual Resource Policies 2, 4, and 5.

Even if enforced, the conditions required for this development may not have been adequate to mitigate its visual impacts. But without condition compliance the project clearly lacks conformity with the LCP policies that were meant to be addressed. Similar to the Commission's experience with limited staff resources and condition compliance monitoring, County staff confirm that less than 10 percent of approved projects receive any formal follow-up review to assure condition compliance. Unfortunately, the lack of enforcement can create a lack of incentive among applicants to implement mitigation measures agreed to during the permit process.

Given the existing permit workload, the County lacks adequate staff in either the Planning or Enforcement divisions to adequately follow up on monitoring and mitigation conditions. As a result, mitigations required to create condition compliance may not be fully implemented, resulting in new, non-conforming development. Again, the Commission is well aware of the difficulties associated with lack of adequate staffing levels for monitoring and enforcement. But, without adequate monitoring and enforcement, compliance of projects with the objectives of the LCP and Coastal Act is not assured.

Nonconforming Uses: The shooting range project example above highlights issues related to the effect of existing non-conforming development on the review of new development, the implementation of LCP policies to eliminate non-conforming uses or bring them into conformance with the LCP, and the authorization of non-allowable uses.[9]

In particular, the Coastal Act and Visual Resource Policy 1 states that visually degraded areas should be restored where feasible. Although the initial approval of developments that have visual impacts is a critical step, such as the Commission's approval of the shooting range facility, the permit application stage for an expansion of use is also an appropriate time to address non-conformance of previously permitted development. Application of visual resource protection policies to the shooting range project might have assured that either the non-conforming shooting range use was not expanded or that it was brought into compliance prior to expansion. This site now supports seven individual shooting ranges, two pre-fabricated buildings and several support structures with associated landform alterations (roads, berms, cuts) based on an original development that would now be considered to be non-conforming.

CZLUO Section 23.09.012 defines non-conforming uses and developments as:

> *A use of land established where such use is not identified as an allowed, special use or principally permitted use . . . by Table O . . .*
>
> *A building or structure that was established or is conducted in a manner which does not conform with standards or permit requirements of this title relating to setback requirements, height limitations or sign requirements. . . .*

[9] The shooting range activity is most appropriately described as 'Outdoor Sports and Recreation' in Table O (Framework) which, along with indoor retail sales, is not an allowable use in the Agricultural land use category.

> *A site that is developed and/or laid out in a manner that does not conform with standards of [the LCP ordinances] relating to site access location, parking and loading, landscaping, screening, fencing, signs . . .*

Legal nonconforming uses are those that were legally established prior to certification, or as a result of an amendment to the LCP that caused the use to become non-conforming. The stated purpose of Chapter 9 of the CZLUO (23.09.010 et seq,) is to "control, improve or terminate uses that do not conform to the Land Use Ordinance." The best opportunity to eliminate a non-conforming use is in conjunction with a permit for expansion or additional new development. The LCP prohibits any expansion or change of non-conforming use unless additional alterations are made to bring the entire site into conformity. (Sections 23.09.026(a), 23.09.030(a)).

One of the most common visual intrusions in the coastal zone are legal, non-conforming highway signs, both off-site (billboards) and on-site. Billboards are difficult to eliminate as most are located on rural lands that have not undergone any change of use or been part of an application for new development. But on-site signs are occasionally ripe for bringing into conformance when the businesses they advertise expand or change. The LCP contains provisions to support the elimination of non-conforming use. The County needs to further clarify and improve existing standards. The current project description for the North Coast Area Plan Update proposes enhanced sign standards for San Simeon Acres.

For example, permit D960295 allowed the expansion of a gas station and mini-mart just off the intersection of Main Street and Highway One in the West Village of Cambria. A highly visible, 180 square foot, 62-foot high freeway sign was erected on the property prior to LCP certification. This is the only sign of its type in the area, and a significant non-conforming visual intrusion from the highway and the beach. In 1999, the owners received county approval for a 1,902 square foot retail/storage expansion, and the addition of a new use, an on-site car wash. Although the local advisory council recommended bringing the sign into compliance with the sign ordinance, the County only required that the sign be lowered to 42 feet in height and reduced in size to 140 square feet. Additional variances for setbacks were also approved.

On appeal the Commission evaluated the impact of the lowered albeit still nonconforming sign on views from the beach. Although the Commission found no substantial issue based on the minimal impact of the sign on views from the public beach, it also found that there was ambiguity created by competing ordinance 23.09.032, which states that the use of a legal nonconforming sign may be continued unless it is proposed to be expanded, moved or is otherwise a public nuisance. While it appears that the LCP standards applicable to the expansion or alteration of a site with a nonconforming use are somewhat contradictory, the language requiring new development to trigger conformity of existing non-conforming uses in 23.09.030 is particularly strong, compared to the permissive language of 23.09.032. To ensure full LCP implementation, further clarification and improvement of the CZLUO standards may be needed.

Cellular Towers and Fiber-optic Cables: Emerging technologies that were not considered at the time the LCP was certified could have an impact on visual resources. The proliferation of cellular towers and on-shore fiber-optic cables have both short- and long-term visual impact implications. Between 1988 and 2000 at least six cellular projects were approved, including new

towers at Ragged Point and near Harmony and Avila (see 4-SLO-90-357, 3-SLO-92-114, 3-SLO-95-012, 3-SLO-96-057, 3-SLO-97-181, 3-SLO-00-468). All of these permits raised visual resource protection issues. Cellular towers are permanent pole structures typically located at points where signals can be most efficiently received and relayed, such as ridgelines, bluff tops or open fields. In one case (4-SLO-90-357), the County required screening of the facility with cypress trees, and painting the facility a light tan color and light blue where any part of the structure would break the ridgeline. In another case, it was necessary to grant a variance to allow a 55 foot high structure in the Highway One viewshed near Harmony (3-SLO-92-114). The County adopted the following visual mitigation condition:

> *The applicant shall provide the following mitigations:*
>
> a. *The monopole and antennae shall be painted a light gray or light blue color. The proposed building shall be painted a light tan color.*
> b. *An earthen berm shall be constructed on the northwest and northeast sides of the proposed building in order to screen the building from the sensitive viewsheds. The berm shape shall be freeform and shall avoid unnatural straight lines.*
> c. *All disturbed areas including the berm shall be reseeded and managed to successfully establish vegetative cover.*

In a recent field visit it appeared that the monopole was actually painted white, and it presented a distinct visual impact from Highway One. In yet another case, high above Avila and Pirate's Cove, the County adopted even more specific visual impact mitigation conditions for paint color, vegetative screening, bonding to assure installation of the landscaping, and a minimum of five years of monitoring. Finally, in the most recent case, the County conditioned the project to require the allowance of future co-located facilities if feasible (3-SLO-00-468).

With growing public reliance on cellular phone service and internet access, the demand for associated infrastructure projects is expected to continue. The County is currently processing more than 100 applications for new cellular towers, at least five of which are in the coastal zone. The County has amended their inland ordinance to address the siting and appearance of cellular towers, designed to minimizing visual intrusions, and guide appropriate site selection. An LCP amendment to address this concern is currently being reviewed by the Commission. The staff is recommending that the amendment be modified to address visual impact concerns, including avoidance of viewshed impacts, siting alternatives evaluation, co-location of facilities, and restoration of unused facilities (see SLO LCPA 2-99 staff report). The adoption of this amendment will specifically update the LCP with respect to this growing visual resource concern.

Finally, as noted in Chapter 10 (Energy), many other fiber-optic cables are also projected. Fiber-optic and other underground telecommunication cables can require trenching and occasionally road grading which may create significant, if temporary, visual impacts in rural areas. The WorldCom fiber-optic project, which landed at Montana de Oro State Park and involved some vegetation removal to allow construction, is highly visible from the sand spit at Morro Bay, creating a visual intrusion similar to a firebreak. As discussed in Chapter 10, improvements to

existing policies could ensure future consolidation of such facilities and minimization, therefore, of potential visual impacts from these new facilities.

Consistency Analysis: As discussed earlier, the County's LCP policies might well be applied in such a way as to permit new development consistent with the Coastal Act. But the language of the LCP viewshed protection policies also gives the County more discretion to permit development that may be less protective of scenic resources than Coastal Act policies would allow. The LCP policy for siting new development, Policy 2, uses permissive language relating to siting in public view corridors. Policy 4 addresses new development in rural areas. Policy 2: provides:

> *Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.*

Policy 4 provides:

> *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views.*

Vegetative screening is the County's most common choice of view impact mitigation, and LCP policies allow for such screening when new development cannot be sited outside of the view corridor. Avoidance of impacts through site selection and design alternatives is the preferred method for preserving scenic views over mitigation through vegetation screening. Trees and shrubs take time to grow, are dependent on continued care and maintenance, can be removed at a later date and create view obstructions and unnatural vistas of their own. The failure of vegetation to adequately screen development, whether through inappropriate design or lack of adequate care, is a primary source of non-compliance with Coastal Act policies. Along some portions of the SLO coastline, there is very little naturally occurring major vegetation of size large enough to screen even a one story dwelling. In these areas, the introduction of trees and large shrubs tends to call attention to the new development and also looks out of character with the natural landscape. Re-siting and re-designing are rarely prohibited by site or engineering constraints, and should be the first avenue for implementation of LCP policies.

To summarize, important pubic viewsheds have been degraded both prior to and in the 12 years since LCP certification, and may continue to suffer the cumulative impacts of new development without improvements in the LCP policies, ordinances and implementing actions. Inadequate regulatory control over siting and design of new development, over-dependence on vegetative screening to mitigate substantial visual impacts, lack of enforcement of permit conditions,

missed opportunities to eliminate non-conforming uses, and a development in critical viewsheds are all contributing to an erosion of irreplaceable visual resources.

Preliminary Policy Alternatives:

There are a variety of issues and on-going challenges that need to be addressed to improve the LCP's protection of scenic viewsheds and rural landscapes. Significantly, the County has proposed a number of new policies in the Updates for both the North Coast and Estero Area Plans. Most important, the recent NCAP project description proposes a Critical Viewshed Designation and Policy for all of the rural North Coast except the urban nodes of San Simeon Acres and Cambria. This proposal incorporates much of the policy recommendation adopted by the Commission in 1998. Further specific review and consideration of the details of this policy will be needed to assure incorporation of an optimum critical viewshed policy into the LCP.

The County is also proposing enhance visual protections for the Estero Planning Area. The EAP proposes policies to protect the scenic vistas of the Morros, including standards for siting and design to minimize visual resource impacts and requirements for open space dedications to provide long-term view protection. In addition to this work in the EAP, a significant planning effort has been taking place to address long-run viewshed protection in the Morros Planning area. Among other things, this planning effort proposes addressing protection of natural landforms, addressing existing billboards and signs, and undergrounding utility lines.[10]

Alternative Policy recommendations to consider include:

Preliminary Recommendation 8.1: Enact Critical Viewshed Protection Policy
Given the discretion allowable under existing LCP policies relating to view protection, San Luis Obispo should adopt a strong, clearly articulated critical viewshed protection policy that precludes any new development visible from public viewing areas in those areas designated as critical viewsheds. As already proposed by the County, these areas should include all of the North Coast rural areas with exceptions for the urban nodes of San Simeon Acres and Cambria. Extending the viewshed protection policies makes sense from a regional planning standpoint, as approximately 2 miles of the Big Sur coast is located in San Luis Obispo County. The undeveloped coastal terraces, rolling grasslands and distant mountain views from the Hearst Ranch are no less spectacular in their own right than the Big Sur coastline itself. Highway One is designated a State Scenic Highway through both jurisdictions, from State Route 68 in Monterey County to the San Luis Obispo City limits. The scenic Morro corridor should also be evaluated for enhanced viewshed protection.

Preliminary Recommendation 8.2: Create a Scenic SRA Combining Designation
San Luis Obispo does not have a Scenic SRA combining designation. While many highly scenic areas are already covered by an SRA overlay for other reasons, such as terrestrial habitat or

[10] *Draft Issues Paper for the Morros Planning Area*, prepared by the Morros Advisory Committee and Morros Technical Committee, May 21, 1999.

wetlands, gaps in SRA overlays have resulted in project approvals that are inconsistent with both the LCP and the Coastal Act.

Although scenic resources are considered to be a basis for a Sensitive Resource Area by section 23.01.043 (c)(3)(iii) of the CZLUO, no specific ordinances are including in the LCP to implement this designation. Nor is a visual resource SRA specifically indicated on the combining designation maps of the LCP. In addition, text within the area plans does not always include the important scenic value of the visual resources found there. For instance, the Estero Plan, when discussing the volcanic Morro Peaks separating Los Osos and Chorro Valleys, states that the SRA overlay is to protect agricultural uses. In the South Coast Area Plan, the SRA combining designation overlay can be found on the greater Nipomo Dunes area, including Dunes Lakes, Santa Maria River mouth and Oso Flaco Preserve areas, but doesn't reference the scenic resources at these locations.

While the discussion of SRAs in Chapter 6 of the EAP describes their value as habitat for migratory waterfowl and rare and endangered plants, and recommends protections for recreational and biological reasons, once again no mention is made of their scenic values. Much of this is addressed through currently pending County Area Plan update proposals. In addition, County staff explain that they consider scenic resources to be included in the broad category of "special environmental qualities" referred to in Section 23.07.160 which describes the nature of the broad SRA overlay that currently does exist along much of the SLO coastal zone. But underscoring these values with an explicit Scenic SRA could strengthen staff's ability to condition and mitigate future projects more appropriately, and provide additional levels of review. All highly scenic areas in the Coastal Zone should be mapped and designated as Sensitive Coastal Resource Areas.

At the same time, it also should be noted that the County has made improvements to SRA designations to address scenic and visual resources inland of the Coastal Zone. Permit requirements include assessing visibility of the project, requiring a site visit as part of the application process and other standards on ridgetop development, slopes, rock outcroppings, building feature and landscaping. Creation of a coastal visual SRA could incorporate and expand upon these elements.

Preliminary Recommendation 8.3: Strengthen Enforcement Program and Condition Compliance Monitoring

In order to ensure that conditions that are required to achieve LCP consistency with visual resource protection policies are implemented, the County should increase monitoring and condition compliance efforts. The Planning Department should develop a project tracking system to assure that all approvals that include specific mitigation measures get assigned to a staff person responsible for their monitoring and enforcement, and coordinating with other affected departments. Enhanced coordination between the Commission and the County on condition compliance and enforcement issues would also improve implementation of the LCP and the Commission's on-going permitting responsibilities.

Preliminary Recommendation 8.4: Create a Funding Mechanism For An Open Space District

Because the most effective way to preserve visual resources is to purchase open space for public use, the County should consider creating a permanent source of funding for open space acquisitions. A 1/2 cent sales tax, bond initiative or creation of a county-wide or coastal zone open space district could provide millions of dollars annually for the purchase of property and retirement of development rights.

Preliminary Recommendation 8.5: Pursue National Scenic Byway Designation for Highway One in the Estero and North Coast Planning Areas

This recommendation is consistent with extending the Big Sur critical viewshed policies in Monterey County where Highway One is designated both as a State Scenic Highway and a National Scenic Byway. National recognition is not only well-deserved for this stretch of coastline, it would make it eligible for federal funding for enhancements and acquisitions along the route. As public ownership is the most effective way to protect the natural character of the coast, conservation acquisitions along this route should be a high priority for the County. This could be added as a program in both the Estero and North Coast Area Plans.

Preliminary Recommendation 8.6: Strengthen Public Viewshed Protection Policy Language

The LCP should be amended to clarify that scenic viewsheds need to be protected from all public viewing areas, including state coastal waters. This could be accomplished through additional language in existing LCP visual policies and ordinances. For example, amend Policy 2 as follows:

> *Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from **all** major public viewing **areas, including state waters** ~~corridors~~. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.*

Amend Ordinance 23.04.021 (c)(6) as follows:

> *New land divisions where the only feasible building site would be on a slope or ridgetop where a building would be silhouetted against the skyline as viewed from **any public viewing area, including state lands** ~~a public road~~ shall be prohibited . . . .*

C.2. Preserving Community Character

Overview: As summarized earlier, the LCP and the Coastal Act seek to protect the character of unique coastal towns. Section 30253 states:

> *New development shall:*
> *...(5) where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The Act includes "special communities or neighborhoods which are significant visitor serving destination areas" in the definition of "Sensitive coastal resource areas." (Section 30116)

Community character comprises many subjective elements best identified at the local level. The LCP seeks to preserve community character by requiring new development to be compatible with existing structures and natural features of the community. The SRA combining designations for these areas provide for additional review of new development proposals, and the design standards in the area plans place additional restrictions on building heights, mass and setbacks, and in some cases materials, colors and design features. The County is currently working with several communities to implement stand-alone Design Plans for several of these areas, to add a greater level of specificity to design standards and emphasize public spaces.

The CZLUO (23.11.030) defines Special Communities as areas and communities with unique, visually pleasing characteristics that serve as visitor destination points. Small-scale neighborhoods are defined as those that have primary use by residents and secondary use by the general public. Nine areas are designated in the LCP as Small Scale Neighborhoods or Special communities. They include:

- Avila Beach - Commercial and Recreation categories along Front Street
- Cambria - Commercial and Recreation categories along Main Street and Moonstone Beach Drive
- Cayucos - Commercial and Recreation categories along Ocean Avenue
- South Bay - Baywood Village Commercial area
- Port San Luis - Public Facilities category
- San Simeon Acres - RSF and RMF categories
- San Simeon Village - Commercial category

Small Scale Neighborhoods

- Baywood Peninsula - RSF within Tract 40
- Oceano - RSF and RMF west of Highway One
- Cayucos – Studio Drive and Pacific Avenue
- Cambria

LCP Policy 6 protects designated communities by requiring new development to be designed and sited to complement and be visually compatible with existing characteristics of the community. Both SC and SSN combining designations have special standards unique to those communities written into their respective area plans. These standards describe allowable or preferred architectural character, and limit density and gross structural area by setting maximum height levels and setback requirements. Some limit lighting, landscaping, color palettes and specific architectural details reflective of the individual history and visual nature of the areas.

LCP Implementation: In the urban areas of the coastal zone considerable progress has been made by the County in achieving community character and visual resource protection. In particular, the LCP contains a number of proposed programs that are intended to support community objectives in implementing the LCP. These are non-regulatory, voluntary actions undertaken by the community, the County and other public agencies to address local concerns. Some of them implement LCP and Coastal Act policies to restore visually degraded areas where feasible, and/or to add to the overall attractiveness of special communities (LCP Policy 6). The County has made an important effort to implement a number of these programs, especially in communities that actively support the goals of each program.

Oceano Urban Area Program

Perhaps the most dramatic program undertaken by the County to preserve and enhance community character is the Oceano Neighborhood Preservation Project. The San Luis Bay Area Plan includes Urban Area Programs for the town of Oceano, encouraging the County to work with property owners and community groups to improve the streetscapes, clean up residential neighborhoods and rehabilitate the central business district. In early 1999 the County planning department teamed up with citizen activists to plan the first phase of a grass roots, community-wide effort to address community improvement. Eventually the public/private team included public health officials, police and fire fighters, and elected officials who met weekly with community members and planning staff to organize committees, raise public awareness, raise funds and galvanize public support for a major overhaul of the town.

On two successive weekends in June, county staff and local volunteers turned out by the hundreds to take part in a massive community clean up effort. Volunteer crews removed 500 tons of scrap metal, 200 tons of household garbage and over 100 junked vehicles. The County contributed $35,000 to the effort in tipping fees, including $20,000 for disposal of hazardous waste. In-kind contributions and donations from community members and businesses covered the remainder of the costs.

Phase Two of the project, the Neighborhood Maintenance Program, is now under way. With additional code enforcement staff justified by the success of the program's first phase, staff now makes regular patrol rounds of the neighborhood, taking a pro-active role in code enforcement. County Code Enforcement staff report that their reports have jumped from an average of ten cases per year to over 100, indicating, in their opinion, that the residents' threshold for tolerating nuisances and infractions is much lower than before. More importantly, the town now has mandatory garbage pick up and recycling, an option that had been rejected in years past.

The third phase will address substandard housing and abandoned homes, their rehabilitation, removal and replacement. A Design Plan for Oceano, currently in the planning stage, will address preserving community character through design standards. The Oceano project is now being used as a model for similar programs in other communities, with a Los Osos project being planned for late spring 2001.

Taken together, this effort has effectively implemented the LCP program goal of assisting property owners in making needed improvements to their residences and places of business, and to establish improvement and development standards for future development.

Avila Specific Plan

The County has implemented a number of Urban Area Programs listed in the San Luis Bay Area Plan for the town of Avila Beach, which are designed to visually enhance the area pursuant to LCP and Coastal Act policies, including the adoption of a Central Business District Design Plan and a Front Street Enhancement Plan (collectively the Avila Specific Plan), and the removal of a visually intrusive storage tank facility. The Avila Specific Plan seeks to enhance the downtown commercial district and expand visitor services while retaining the integrity of residential neighborhoods.

The Commission reviewed the Avila Specific Plan in November 2000. The County planning department worked extensively with coastal staff, local residents and elected officials to submit a plan that provided very detailed standards for the rebuilding and redesign of the town of Avila. The Avila Specific Plan included a focused effort on the aesthetic enhancements to the downtown commercial core and pedestrian promenade. Enhancing visual appearances of coastal communities is being addressed in the numerous design plans discussed below.

Cambria Forest Management Plan

At the time of LCP certification, the greatest threat to Cambria's Monterey Pine Forest was encroaching urbanization. The North Coast Area Plan encouraged the County state and local entities to complete a study on forest preservation. With the recent spread of pine pitch canker, this important native forest is increasingly vulnerable and of statewide concern. Deforestation would have serious visual, as well as environmental consequences for the area.

The County created a Forest Management Committee, made up of local and regional stakeholders, to map strategies for drafting and implementing the plan. In 1998, the County officially transferred management of the committee to the Services District, which has been successful in obtaining funding and a consultant to draft the plan. County staff continue to participate as stakeholders. The North Coast Area Plan Update includes greater detail regarding forest management, and recommends the creation of a mitigation fund supported by permit fees for tree removal.

Design Plans

LCP policies relating to Special Communities and Small-Scale Neighborhoods seek to design and site new development within urban areas in such a way as to complement and be visually

compatible with existing structures, and be compatible with unique architectural historical style, or natural features that add to the overall attractiveness of the community.

As discussed in the community character section of this chapter, some communities have been critical of the County's implementation of existing design standards, believing that they are overly broad, vague, and difficult to quantify in a regulatory setting. The development of Design Plans is the County's attempt to provide greater specificity to the question of designing to protect community character.

Design plans are separate, stand-alone amendments to the General Plan that address planning and building standards in specific communities with greater detail than area plans, but are not as extensive as specific plans. They provide a variety of information, some of which is presented as mandatory standards but primarily they contain general guidelines on matters such as streetscapes, architectural styles, types and location of parking, signs, and community preferred uses. They do not ascribe specific uses for specific properties or change land use designations, but they do address issues of scale and preferred uses.

The County has adopted two inland design plans, and is currently in the planning process of six more, four of which are in the coastal zone. The recent popularity of these plans is attributed to local citizens' requests for greater levels of assurance regarding the type, scale and location of new development that would be allowed in their communities. The reason these standards are not simply amended into the existing area plan is that county staff indicates that communities prefer having a separate document unique to their town, and they are used as promotional tools to attract new business and residents. In addition, their stylized format lends itself more readily to a stand-alone plan.

Unlike specific plans, design plans do not address specific enforceable issues dealing with traffic circulation, zoning changes, allowable uses, density, polluted runoff controls etc. Generally speaking they are softer and more open to interpretation than specific plans, but enhance and embellish what is already in the land use element. Four design plans are currently being processed in the coastal zone, for the communities of Cambria, Los Osos, Cayucos and Oceano. None have yet been approved by the Commission, with the exception of the Avila Specific Plan which incorporated the Front Street Design Plan.

The County has submitted public review draft of the commercial section Cambria Design Plan for review and comment. Commission staff found many positive aspects to the plan, but noted areas that needed further consideration or analysis (See Appendix E for comment letter). Design plans, once adopted, become part of the LUE. Therefore, the County follows the same noticing and public hearing requirements as are required for an LCP update. In addition, County staff works with members of the community, generally a sub-committee of the community advisory council, to develop the plan and host public workshops.

Overhead Utility Undergrounding Project

LCP policies call for restoring degraded views where feasible, and undergrounding new utilities in public view corridors. The County Undergrounding Committee, comprised of county staff,

public members and utility representatives, meets monthly to oversee the conversion of overhead facilities pursuant to PUC Tariff Rule 20 A, a funding mechanism coordinated by the PUC for converting overhead facilities to underground throughout the state. The funds are paid by ratepayers, and set aside annually for distribution to agencies. Converting overhead facilities is extremely expensive, with some projects costing over $1 million and requiring a year or more to complete. San Luis Obispo County receives approximately $600,000 annually, and has completed 23 projects in 30 years, one of the highest completion rates in the state, according to the PUC.

To qualify for undergrounding, an area must meet one of three criteria. The area must either have (1) a high concentration of overhead facilities; or (2) be a heavily traveled area; or (3) have highly scenic or aesthetic qualities. Every few years the committee nominates properties or areas to be included in the priority list, and submits this list to the Board of Supervisors for approval. Although this is a countywide program, a high percentage of projects have been located in the coastal zone. The most recent project completed was the Estero Bluffs project in mid 2000. Other coastal sites that have been converted include, Avila Front Street, Highway One between Morro Bay and Cayucos, Pier Avenue in Oceano, Studio Drive in Cayucos, Cambria East Village and portions of West Village, Moonstone Beach Drive, Baywood Park and Los Osos Valley Road. The County has also partnered with the cities of Arroyo Grande and Morro Bay to support undergrounding efforts within those cities.

Unfortunately this highly successful project may be in jeopardy as a result of the deregulation of California's utility companies. The PUC is currently examining the program and will be taking public input on alternatives.

Reported Development Approvals

Within the urbanized areas defined as small-scale neighborhoods or special communities, new development is intended to be designed and sited to complement and be visually compatible with existing characteristics of the community. The combining designations use both quantitative standards (maximum height, setback, etc.) and qualitative guidelines for the siting and design of new development. This has caused some projects to gain county approval based on quantitative standards, over the strong objections of residents who rely on the intent of the qualitative language.

A recent example of approved new development that complied with the area standards but did not achieve the objectives of Policy 6 is the Victorian Inn in the Cayucos commercial core. The location for this 16,820 sf 30-unit motel project with a managers unit and a parking garage carries a Special Community combining designation SRA overlay. This highly controversial project was heard twice by the Planning Commission and four times by the Board of Supervisors before it was appealed to the Commission by 24 individual citizens of Cayucos. (3-SLO-99-118 /D960038P). The Cayucos Citizens Advisory Council discussed the project at numerous public meetings from February 1998 through August 1999.

Even though it complied with the physical limitations of the standards, a substantial segment of the community felt strongly that the project as proposed was too massive for the site and out of scale with the rest of the community. At the final Board hearing, the staff report recommended

that the Board deny the project based on the failure of the project to satisfy Policy 6. However, the Board conditioned the project to require reductions in gross area, and approved the permit. On appeal the Commission further reduced the gross structural area, in response to continuing local concerns that the structure, the largest of its type in the town, would still be out of character with neighboring buildings (A-3-SLO-99-060).

The lengthy debate over this project partly illustrates the continued local ambivalence over the Small Scale Neighborhood Design Standards adopted in 1995. This began as an attempt to add specificity to Small Scale Neighborhood design standards in Cayucos, and actually resulted in the removal of the SSN combining designation for two previously designated neighborhoods. As originally certified, the Estero Plan listed two residential neighborhoods in Cayucos as Small Scale Neighborhoods (Pacific Ave. neighborhood and Studio Drive neighborhood).

Alarmed by the number of small, older beach cottages being razed and replaced with homes of much greater height and bulk, the Advisory Council undertook a community-wide planning effort to develop the Small Scale Design Standards. After much community debate, in April, 1995 the SLO Board of Supervisors approved new standards for the two Cayucos Small Scale Neighborhoods, re-classified the areas as Cayucos Small Scale *Design* Neighborhoods, and submitted an LCP amendment for certification reflecting the change. While the new standards quantified and standardized buildings within the geographical boundary of the SSN, the new labeling eliminated the Small Scale Neighborhood SRA combining designation and thus removed the appealability of projects in the area, except for those buildings within 300 feet of the ocean bluff. The LCP amendment also reduced the level of permit required from a minor use permit to a plot plan, for certain single family residences, reducing the level of public review. The Commission approved this LCP amendment (2-95) in October of 1995.

One result of this change that may not have been anticipated by the Commission and the County is that the public may receive less notice of new development. In addition the public now has no recourse to pursue appeals before the Commission except for those projects that fall within other areas of appeal jurisdiction (such as within 300 feet of the bluff edge). The full implications of this change were not realized by the community until residents appealed a single-family residence in the small scale design neighborhood which received variances for setback and gross structural area in excess of allowable limits by 60% (3-SLO-97-132/D970004P). The Commission staff determined that the project was no longer appealable, which left the appellants no recourse other than the courts, where the case remains today. More detailed review of how well the small-scale design designation in Cayucos is working is needed, and will be completed in the next phase of the Periodic Review.

As discussed above, in an attempt to gain a greater level of assurance regarding compatible new development within urban areas, many communities, including Cayucos, are currently in the process of preparing Design Plans, that further define visual standards with respect to specific neighborhoods and/or types of uses. These will eventually come to the Commission as LCP amendments. While community character is difficult to define, it may be beneficial to prepare specific plans for special communities such as Cayucos. Although drafting of such plans can be protracted and difficult, in the long run greater specificity and regulatory assurance results in

more realistic expectations on the part of both applicants and residents and reduces multiple re-designs and appeals.

Transfer of Development Credits

Although Lodge Hill in Cambria is not a neighborhood specifically designated as Small Scale Neighborhood in the LCP, it is nevertheless a unique community that would qualify as such. As discussed in Chapter 2, one of the greatest threats to its continued community character is the potential build out of many hundreds of small, antiquated but legal lots. At total theoretical buildout, Cambria would not only exceed its available resources and overwhelm its existing infrastructure, it would also destroy much of the scenic charm that has attracted the current population and the 3 million visitors who pass through the area every year.

In an effort to reduce the impact of small-lot development on resources in Cambria, the County adopted a Transfer of Development (TDC) ordinance in 1984 (23.04.440). A detailed discussion of the program can be found in Chapter 2. While the program has reduced by approximately 125 the number of buildable parcels on Lodge Hill, and helped to preserve the environmentally sensitive Fern Canyon area, the 79,000 square feet of additional development it has enabled may have had an unintended consequence on community character. The ordinance requires findings to be made that the 'receiver' site can accommodate the proposed scale and intensity of development without the need for a variance, exception to height limitations or modifications to parking standards. Yet a visual survey of many of the homes built on Lodge Hill and Marine Terrace, many of which were recipients of TDCs show that some of them virtually fill the lot and appear quite imposing in comparison to adjacent older homes.

Map 2-B shows that the pattern of TDC application is quite dispersed, but that there are some areas where larger homes may be building out in close proximity to each other. In addition, while forest resources are preserved on sender sites, the additional development permitted on the receiver site may result in the removal of considerable native vegetation. If one assumes the character of the community is small, eclectic, rustic homes on heavily wooded lots, or bungalow-style fisherman cottages, than the TDC program may be having a negative impact on Cambria's community character. One advantage to the pending Design Plan for Cambria is that it will allow for community participation and formulation of a better defined community character.

Harmony

In recent years various proposals have been put forth for new development in the town of Harmony. The most recent Project Description for the North Coast Area Plan anticipates minor expansions of tourist shops and attractions. It also contains a recommended change of 2.5 acres of agricultural land to commercial zoning. The Plan presents a new site planning and design standard for the town to assure that new development is compatible with the existing Harmony Valley Creamery. This includes emphasis on historic character, minimizing view impacts from Highway One, limiting structure and sign heights to 28 feet, and limiting new uses to small scale developments, including hotel, motel, Bed and Breakfast, general merchandise, eating and drinking places, single family dwellings and agriculturally-related uses.

As discussed in Chapter 2, one concern for the rural north coast is the appropriate location and intensity of new development and in particular, assuring that new development is environmentally sustainable. Any such redevelopment or expanded development in Harmony will need to be examined carefully with this Coastal Act concern in mind. In addition, given the special character of Harmony, the County should consider designating the town as a special community, subject to specific development standards.

Preliminary Policy Alternatives:

Preliminary Recommendation 8.7: Restore Small Scale Neighborhood SRA Designation to Cayucos
The County should consider reinstating its original SSN combining designation to provide additional standards and scrutiny for visual resources protection.

Preliminary Recommendation 8.8: Complete Specific Plans, Rather Than Design Plans
The effort to further define and describe area plan standards through the pursuit of design plans is commendable. However, design plans may not go far enough to address the problematic issues in coastal communities. Although specific plans, because they deal with zoning changes and specific uses, may be more controversial and time consuming to develop, ultimately they may result in fewer appeals and streamlined development approvals.

Preliminary Recommendation 8.9: Monitor and Evaluate Current TDC Program
Although the TDC program was originally intended to reduce build-out and preserve forest resources, its effect on community character should be thoroughly assessed through enhanced evaluation and monitoring of the program's impact on neighborhoods.

Preliminary Recommendation 8.10: Support Continued Undergrounding of Overhead Utilities
The County Undergrounding Committee should continue to receive strong support for their work, and the Coastal Commission should work with the PUC to ensure that this important program is retained. The committee should consider including the overhead utilities across and along Highway One through the Hearst Ranch on the next priority list submitted to the Board of Supervisors.

Preliminary Recommendation 8.11: Evaluate Designation of Harmony as a Special Community of Historic Importance
The County should evaluate the potential designation of Harmony as a Special Community of Historic Importance. This status should trigger heightened review of the type, intensity, and character of new development, to preserve the unique character of this town.

CHAPTER 9: ARCHAEOLOGICAL RESOURCES

A. Policy Framework

Section 30244 of the Coastal Act serves to protect archaeological resources:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

The SLO LCP has a variety of policies and ordinances to implement section 30244 of the Coastal Act, including six policies to ensure that any proposed development would be designed and located to minimize its impacts to archaeological resources. These policies define the identification and mitigation of archaeological resources as well as how to handle archaeological resources discovered during construction or other activities.

Section 23.07.104 of the Coastal Zone Land Use Ordinance (CZLUO) also outlines procedures and requirements to apply to development within archaeologically sensitive areas. These procedures include the definition of an archaeologically sensitive area, the requirement of a preliminary survey, and a description of when a mitigation plan is required.

In addition to overarching policies and ordinances, the Land Use Element and Local Coastal Plan for the four planning areas of San Luis Obispo County contain sections on combining designations and planning area standards for archeological resources.[1] For example, the Estero planning area states that an archaeological resource standard shall be applied to 1995 Assessor Parcel Numbers 038-721-005 and 014 located on El Morro Ave., east of South Bay Blvd. At the time of land use permit application, the applicant shall provide sub-surface testing conducted by a qualified archaeologist in order to determine the significance and possible mitigation measures for the resources on the project site. The applicant shall implement the recommendations of the archaeologist as determined appropriate by the Environmental Coordinator.[2]

The San Luis Bay planning area designates the Irish Hills Coastal Terrance Archaeological Inventory as a sensitive resource area. In addition, the LCP calls for the County to encourage the San Luis Obispo Archaeological Society to study the coastal terrace areas north of Diablo Canyon to more accurately identify the extent of historical sites.[3] The South County planning area identifies an archaeological resource preservation standard for Guadalupe Dunes, the sand dune areas south of Oso Flaco Road. To ensure archaeological resource protection, the State Department of Parks and Recreation should provide the fullest protection by fencing all known sites.[4]

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[1] Planning area standards are mandatory requirements for development, designed to handle identified problems in a particular rural area, or to respond to concerns in an individual community.
[2] SLO Land Use Element and Local Coastal Plan, February 28, 1988, Estero, pp. 8-46, 8-47.
[3] SLO Land Use Element and Local Coastal Plan, February 28, 1988, San Luis Bay, p. 7-5.
[4] SLO Land Use Element and Local Coastal Plan, February 28, 1988, South County, pp. 50, 54.

B. Background

Archaeological sites are among the most fragile, nonrenewable coastal resources in the state. Detailed study of archaeological sites is the only method of gaining knowledge and understanding of prehistoric cultures. Moreover, many archaeological sites and artifacts are in themselves a sacred part of Native American heritage and culture.

Prehistoric sites represent the material remains of Native American societies and their activities. Such sites include villages, seasonal camp sites, stone tool quarry sites, hunting and butchering sites, traditional trails, and sites with rock carvings or paintings. Archaeologists identify such sites by the presence of one or more of the following: Stone flakes made of chert, jasper, quartzite, quartz; Basalt, obsidian, and other rock types; Shell, animal bone, and/or fish bone; Groundstone tools used for grinding seeds; Plant foods, such as manos, metates, or bedrock mortars; Artifacts, such as arrow or spear points; Fragments of pottery vessels; Darker soil, called "midden"; Circular depressions representing houses or ceremonial structures.[5]

CEQA Section 21083.2 defines a unique archaeological resource as an archaeological artifact, object, or site, about which it can be clearly demonstrated that there is a high probability that it meets any of the following criteria:[6]

1) *Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.*

2) *Has a special and particular quality such as being the oldest of its type or the best available example of its type.*

3) *Is directly associated with a scientifically recognized important prehistoric or historic event.*

The County of San Luis Obispo has a rich and copious archeological heritage. Level to gently rolling areas near the coast or along water courses are more likely to contain archaeological sites. However, because humans have occupied the lands of San Luis Obispo County for at least 9,000 years, dramatic changes in landforms may have occurred and archaeological sites may be found nearly anywhere.[7] As of October 25, 2000, 2,055 archaeological sites have been registered with the Central Coast Archaeological Information Center, of which the vast majority fall within the county's Coastal Zone.[8] This is more than a two-fold increase in registered sites since the time of LCP certification in 1988, when 446 of a 1000 sites fell within the coastal zone.[9] Over the past few decades, a more expansive interpretation of real estate disclosure laws to include archaeological resources within due process, has led to a significant rise in archaeological resource surveys. This, in combination with CEQA Phase I surface survey requirements for

[5] California Native American Heritage Commission http://ceres.ca.gov/nahc/understandingcr.html#penaas
[6] CEQA web site: http://ceres.ca.gov/ceqa/stat/chap2_6.html.
[7] SLO County Dept of Planning and Building http://www.slonet.org//vv/ipcoplng/arch.html.
[8] Personal communication, Bonnie Yoshida, Assistant Coordinator, Central Coast Archaeological Information Center, (10/25/00).
[9] SLO LCP Coastal Plan Policies, February 25, 1988, p. 12-1.

proposed development conducted to determine the presence or absence of surface indicators of archaeological resources, has significantly increased the county's archaeological database, especially within the coastal zone's urban areas. Not only has site identification increased, but site boundaries have been more clearly defined.[10]

As discussed in the San Luis Obispo County LCP, the principal sources of destruction of archaeological sites appear to be urbanization and uncontrolled public access. Some of the threats posed by urbanization include: grading activities (both agricultural and construction related); residential and industrial construction; construction of roads and highways; water projects (eroding and burying sites); pipeline projects; off-road vehicles; recreational developments; natural forces (water and wind); and unauthorized collection of artifacts.[11]

C. Preliminary LCP Implementation Issues

C.1. Adequate Identification of Archaeological and Historic Resources.

Overview: To adequately protect archaeological resources, sites must first be identified. The Local Coastal Program contains policies and ordinances for the identification of archaeological sites. The third policy of the LCP states that the county shall establish and maintain archaeological site records of data files about known sites. These sensitive areas shall be treated as confidential and be defined as follows:[12]

- Within rural areas, the county maintains on file a parcel number list of known sites as prepared and updated by the California Archaeological Site Survey Office.

- Within urban areas, the county shall maintain maps in the Land Use Element which reflect generalized areas as known sites. These maps shall be prepared by the California Archaeological Site Survey Regional Office.

In addition, the LCP describes Archaeologically Sensitive Areas (ASA) as one of 14 combining designations identified in the San Luis Obispo County Coastal Zone Framework.[13] The ASA designation is applied to areas of known or suspected archaeological resources. Section 23.07.104 of CZLUO defines ASAs as

(1) Any parcel within a rural area which is identified on the rural parcel number list prepared by the California Archaeological Site Survey Office on file with the county Planning Department.

[10] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (3/1/00).
[11] SLO LCP Coastal Plan Policies, February 25, 1988, p. 12-1.
[12] SLO LCP Coastal Plan Policies, February 25, 1988, pp. 12-2, 12-3.
[13] Combing designations identify areas with characteristics that are either of public value, or are hazardous to the public. The special location, terrain, man-made features, plants or animals of these areas create a need for more careful project review to protect those characteristics, or to protect public health, safety and welfare.

(2) Any parcel within an urban or village area which is located within an archaeologically sensitive area as delineated by the official maps (Part III) of the Land Use Element.

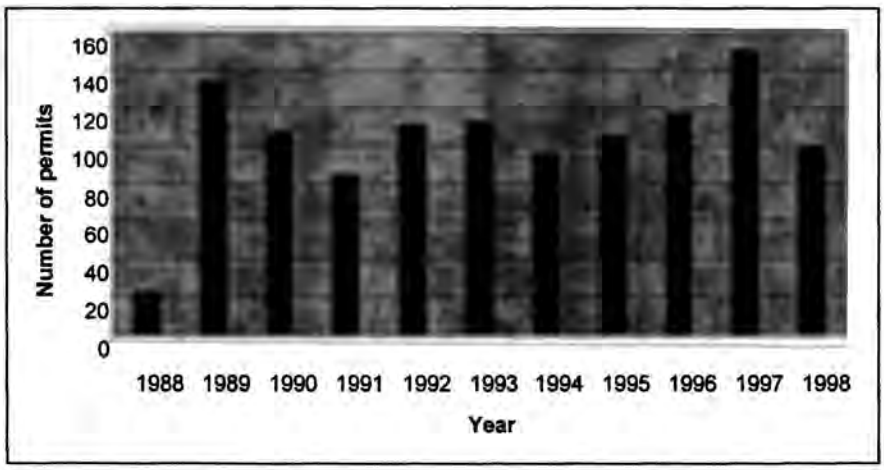
(3) Any other parcel containing a known archaeological site recorded by the California Archaeological Site Survey Office.

The LCP describes the use of sensitivity maps to assist with the identification of cultural resources. Sensitivity maps identify areas where, based on the review of known archaeological recordings and the likelihood of previous settlement patterns, a high probability exists that archaeological resources will be found.[14] Because water was a limiting factor for the Native Americans, they settled near water sources such as streams or wetlands. The sensitivity maps will indicate these water sources. In addition, the maps include areas where known archaeological sites have been identified.[15]

In addition to the provisions of the LCP, the County incorporates other measures to identify archaeological resources. Site evaluations, which are conducted for every discretionary permit, help identify archaeological sites. In a site evaluation, a planner goes to the site to see if any archaeological resources are found on the surface. The planner also checks for certain geographic features such as knolls, rock outcrops, or the presence of water, indicating the possible presence of cultural resources.[16] The County will also consult any in-house information related to a parcel to assist with identification.[17] Additionally, archaeological sites are identified for projects handled through the CEQA process.

LCP Implementation: Out of 2,481 reported Coastal Development Permits for 1988-1998, 1,140 permits raised potential archaeological resources issues. 916 of these permits were identified through the Archaeologically Sensitive Area overlay district of the LCP. Another 224 permits

Figure 9-1: Permits with Archaeology Issues by Year



[14] SLO LCP Coastal Plan Policies, p. 12-2.
[15] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (12/1/00).
[16] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (11/1/00).
[17] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (12/1/00).

were identified as raising an archaeological issue; however, these 224 permits were not indicated as having an archaeologically sensitive overlay. The number of permits raising archaeology issues are broken down by year as seen in Table 9-1.

The majority of permits containing archaeological resource issues are located in the cities of Cambria, Cayucos, and Los Osos (see Table 9-1). Approximately half of the 1,140 permits involving archaeological issues were for new Single Family Dwellings and approximately one-third of the permits were for Single Family Dwelling Expansions (see Table 9-2, next page).

Table 9-1: Location of Permits with Archaeological Issues

Location	Number of Permits
South County	5
Avila Beach	16
Calendar Garrett Village Area	2
Cambria	768
Cayucos	108
Estero	21
Harmony	5
Los Osos	140
North Coast	18
Oceano	48
San Simeon	8
Unknown	1

To analyze the application of the LCP requirements for archeological resource protection, 90 of the 916 permits containing an Archaeologically Sensitive Area overlay district were randomly sampled for the time period 1988-1998. After reviewing the sample of permits and speaking with planners from the County, it appears that the County has been successful in identifying archaeological resources through both LCP implementation and effective use of the CEQA review process. In particular, the provisions of the LCP combined with the additional CEQA measures incorporated by the County, have proven to be adequate in identifying sites. Of the 90 permits sampled, a smaller subsample of ten were evaluated to see if the project site was delineated on the Land Use Element Map for archeological resources. All ten were delineated on the Land Use Element Map.

In addition, 8 of 224 permits containing an archaeological issue, but no Archaeologically Sensitive Area overlay, were randomly selected for the same time period. Of those eight, four were delineated on the Land Use Element Map with an Archaeologically Sensitive Area overlay while four of the permits were found outside of this overlay. Data entry errors may account for the permits that were found to be within the ASA overlay. Sites located outside of the ASA overlay may have been discovered through the CEQA process, the use of sensitivity maps, or the performance of site evaluations.

Table 9-2: Types of Projects with Archaeological Issues 1988-1998

Type of Development	Number of Permits
Agricultural Development	4
Aquaculture	1
Beach Nourishment	1
CDP Amendment	1
Commercial	34
Condo Conversion	1
Grading / Removal or Filling of Material	5
Habitat Restoration / Management Project	4
Hotel/Motel Expansion	7
Industrial / Energy	7
Institution / Military	12
Lot Merger	6
Lot-line Adjustment	8
MFD Expansion	1
New Commercial w/ Caretaker Unit	6
New Hotel/Motel	19
New MFD	11
New SFD	584
Other	5
Public Recreation Facility	9
Public Works	23
SFD Expansion	328
Shoreline/Bluff Protection	25
Stream / River Alteration	3
Subdivision	13
Temporary Event	1
Water Well	21

Consistency Analysis: The Coastal Act requires that reasonable mitigation measures shall be required where development would adversely impact archaeological or paleontological resources. In order to provide reasonable mitigation, sites containing cultural resources need to first be identified. Overall, the County appears to have been reasonably successful in identifying archaeological sites, thus satisfying the objectives of the Coastal Act with regards to site identification.

Preliminary Policy Alternatives:

Preliminary Recommendation 9.1: Update Archeological Resources Overlay Maps

It appears that the official maps of the LUE delineating urban ASAs have been valuable in triggering archaeological site review for the majority of planned urban development. They are not, however, all inclusive of archaeological resources within the urban areas. Updating the LUE maps to reflect a more accurate location of archaeologically sensitive areas will assist with site identification. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps:

Protection of Resources Not Within the AS Combining Designation. *All land use permit applications that propose development within 100 feet of the bank of a coastal stream (as defined in the Coastal Zone Land Use Ordinance), or within 300 feet of such stream where the slope of the site is less than 10 percent, shall be subject to the standards for the Archaeologically Sensitive (AS) combining designation in the Coastal Zone Land Use Ordinance and in this plan.*

C. 2 Adequate Protection & Mitigation Standards for Archaeological Resources

Overview: Once archaeological sites have been identified, adequate protection and mitigation measures need to be established. The Local Coastal Program contains two policies to be implemented as standards to ensure that any proposed development will be designed and located to minimize its impacts on archaeological resources. The first policy provides for the protection of both known and potential archaeological resources. To avoid development on important archaeological sites, all available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal. Where these measures are not feasible and development will adversely affect identified archaeological or paleontological resources, adequate mitigation shall be required. The second policy protects against the vandalization of resources. Activities other than development, which could damage or destroy archaeological sites, including off-road vehicle use on or adjacent to known sites and unauthorized collecting of artifacts, shall be prohibited.[18]

In addition to the standard policies, CZLUO Section 23.07.104 outlines procedures and requirements for development within archaeologically sensitive areas of the coastal zone. Before issuance of a land use or construction permit, a mandatory preliminary site survey must be conducted to determine the likelihood of the existence of archaeological resources. The survey shall be conducted by an archaeologist knowledgeable in the Chumash Indian culture and approved by the Environmental Coordinator. If the preliminary site survey determines that proposed development may have significant effects on existing, known or suspected archaeological resources, a resource protection mitigation plan must be prepared. The plan may recommend the need for further study, subsurface testing, monitoring during construction activities, project redesign, or other actions to mitigate the impacts on the resource.[19] One such action to mitigate impacts is minimization. This entails employing construction designs that minimize impacts to the resources or placing the structure on an area where the least amount of impact to the resource occurs. For example, the structure can be designed with a smaller footprints (muffin-type shape) or alternative foundations such as caisson foundations, perimeter foundations and slab-on-grade foundations can be used.[20]

Policy 5 of the LCP suggests that the preservation of an archaeological site can sometimes be accomplished by covering the site with a layer of fill sufficiently thick to insulate it from impact.

[18] SLO LCP Coastal Plan Policies, February 25, 1988, pp. 12-2, 12-3.
[19] CZLUO Section 23.07.104.
[20] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (11/15/00).

It also states that when a project impact cannot be avoided, it may be necessary to conduct a salvage operation, also known as data recovery, as a last resort. Data recovery involves careful excavation of a portion of the archaeological resource in order to gather and analyze a representative sample. The sample is usually determined based on a relation to amount of disturbance to a site. Samples are usually collected in the form of test pits of column samples. Materials are collected, screened, catalogued and analyzed. If the chosen mitigation measure necessitates removal of archaeological resources, the county shall require the evaluation and proper deposition of the findings based on consultation with a qualified archaeologist knowledgeable in the Chumash culture. Policy 5 also states that a qualified archaeologist knowledgeable in the Chumash culture may need to be on-site during initial grading and utility trenching for projects within sensitive areas.[21]

CZLUO Section 23.05.140 outlines procedures for the discovery of archaeological resources during construction. In the event that archeological resources are unearthed or discovered during *any* construction activities—within or outside the ASA—construction activities shall cease. The Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archeologist, and disposition of artifacts may be accomplished in accordance with state and federal law. In the event archeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.[22]

Although the LCP only requires that preliminary site surveys be conducted for development within an archaeologically sensitive area, the County performs surveys on parcels located in close proximity to the coast (e.g., the area between Cayucos and Cambria from Highway 1 to the ocean), regardless of whether they are located within an ASA.

Although not required by the LCP, participation of Native Americans in regards to disturbance and preservation of archaeological resources is a high priority for SLO's County Planning Department. The Department expanded upon CEQA requirements to include Native American involvement in any project that is known to contain archaeological resources and will involve Phase II subsurface testing. Some concern has been raised among Native American groups, though, about the process for identifying native representatives.

LCP Implementation: Of the 1,140 permits identified as being concerned with archaeological resources, 90 were randomly selected for the time period 1988 – 1998. An analysis of these permits was conducted to determine if preliminary site surveys were conducted, archaeological resources were avoided, and if not avoidable, mitigation measures were incorporated.

To determine whether preliminary surveys had been conducted, eight of the 90 permits were randomly sampled. Of those eight, a preliminary survey was conducted for six permits, one did not require a survey, and one permit did not have a survey performed. Because archaeological records are confidential, the County keeps a separate record of the archaeological surveys in a

[21] SLO LCP Coastal Plan Policies, February 25, 1988, pp. 12-4.
[22] CZLUO—Site Development Standards, §23.05.140.

location that is not accessible to the general public. According to County staff, for the permit that did not have a survey performed, it may be possible that the survey was performed but the report did not make it into the County's separate confidential records.[23]

The County attempts to avoid impacts to archaeological resources by relocating the structure, changing the design of the structure, or minimizing impacts to the resource. For example, in the Todd project, currently on appeal to the Commission for visual resource concerns, the County required that the house be constructed with a smaller footprint to minimize impacts to the resources. Sometimes, though, these measures are not sufficient. In this project, the County did not adequately address the potential for resources to be found during construction, and should have required on-site monitoring for ground disturbance (see Staff Recommendation for A-3-SLO-00-119). In another project (Pescosolido), a caisson and grade beam foundation was used by placing four to five poles, each with a two foot diameter, into the ground. This caused less of a disturbance to resources compared to the placement of a regular foundation which would have required the excavation of the entire area.[24]

If impacts to resources are unavoidable, the County incorporates mitigation measures. The mitigations are influenced by the results of the preliminary survey. If the preliminary survey discovered cultural materials, then specific mitigations were developed to reduce the impacts to these resources. An example of such a mitigation can be seen in permit number 3-SLO-92-121 as follows:

a) *The applicant shall abide by all of the conditions/mitigation measures recommended in the Archaeological Report prepared by Parker and Associates (1992), entitled "Archaeological Investigation of the Vito Tullo Parcel."*

b) *If any significant archaeological resources are found during construction of the proposed project, all earthwork within 150 feet of object(s) shall cease until the resources have been evaluated by a qualified archaeologist from the County approved list. Any additional mitigation measures recommended by the archaeologist shall be evaluated by the Office of the Environmental Coordinator and upon Coordinator approval, implemented by the applicant.*

If a site survey determined that no cultural resources were found, and the site was not located near a known archaeological site, then no mitigations will be listed. If a site survey determined that no cultural resources were found, but the site was in close proximity to a known archaeological site, standard mitigations were listed as conditions of approval to alert the applicant. These conditions are stated as follows:

In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:

a) Construction activities shall cease, and the Environmental Coordinator and the Planning Department shall be notified so that the extent and location of discovered

[23] SLO Planning Department Memo, (12/7/00).
[24] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (12/5/00).

material may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.

b) In the event archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Through permit review, speaking with the County, and conversing with members of the public concerned with archaeological resources for the area, it appears that the County has been reasonably successful in protecting and mitigating archaeological resources as required by the LCP. However, the use of monitoring during construction where appropriate may need to be increased.

Consistency Analysis: The Coastal Act requires that reasonable mitigation measures shall be required where development would adversely impact archaeological or paleontological resources. Overall, the County has been successful in incorporating mitigation measures to protect cultural resources, as required by the Coastal Act. But, some improvements to LCP policies would contribute to greater protection of resources.

Preliminary Policy Alternatives:

The Estero Area Plan Update from February, 1999, offers some possible options to strengthen protection of archaeological resources. For example the following proposes to expand protections outside the ASA:

Protection of Resources Within and Outside of the AS Combining Designation. *Development proposed by land use permit applications that are included in the Archaeologically Sensitive (AS) combining designation or are subject to the preceding standard shall protect archaeological resources as follows:*

a) ***Additional Study Needed.*** *If the preliminary site survey required by Chapter 23.07 recommends further study or subsurface testing, development shall not be approved until the additional study or testing has been completed to the satisfaction of the Environmental Coordinator.*

In speaking with the public about the County's protection of archaeological resources, additional options for improving the protection of resources have been suggested. The County should consider the following options for strengthening the LCP:

Preliminary Recommendation 9.2: Evaluate Requirement for Geoarchaeology Surveys. Because half the burials and cultural resources in alluvial soils lie buried beneath the surface with no surface indication of their location, a geoarchaeological survey could be conducted in

addition to the archaeological surface surveys.[25] The purpose of this survey is to identify areas where archaeological resources may have been buried. Some common geologic environments that may bury resources include alluvial fans, landslides, and eolian (wind-blown) sand deposits. A geoarchaeological survey includes the use of maps of soils and geology to mark areas where sedimentation may bury resources. A field survey is also performed to evaluate the type and extent of sediment and see how these land modifications may conceal resources.[26] The County should assess the feasibility of incorporating this type of survey.

Preliminary Recommendation 9.3: Evaluate Use of Conservation Easements.
Disturbance to archaeological data could also be avoided by requiring a conservation easement over the area containing archaeological resources.[27] Avoiding impacts through such easements may be more protective of the resources than reliance on data recovery. The LCP should be modified to consider such conservation easements instead of data recovery where possible.

Preliminary Recommendation 9.4: Evaluate Permit Exemptions.
Protection of archaeological resources can be increased through modifications to permit exemptions. [28] If the project is considered to be development according to the Coastal Act, it will generate a permit and a preliminary survey will be conducted (e.g. building a house and a driveway on agricultural land or erecting a water tank). If the activity on the land does not require a permit, then the site survey will not be conducted (e.g. converting grazing lands to vineyards).[29] These agricultural lands may contain archaeological resources and some of these activities may be destructive to these resources. For example, in the creation of vineyards, the land can be disturbed up to a depth of four feet.[30] As discussed in more detail in Chapter 5 (Agriculture), permits should be required for modification of agricultural uses that would result in impacts such as grading or increased sedimentation. This would also assure maximum protection of archaeological resources.

[25] Personal communication, Tarren Collins, Attorney, San Luis Obispo County Chumash Council (11/29/00)
[26] E-mail from Jeff A. Parsons, Geoarchaeology, Paso Robles (12/4/00).
[27] Personal communication, Tarren Collins, Attorney, San Luis Obispo County Chumash Council, (11/7/00)
[28] Michael Glassow, Coordinator, Central Coast Archaeological Information Center.
[29] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (11/15/00).
[30] Personal communication, Michael Glassow, Coordinator, Central Coast Archaeological Information Center, (11/15/00).

CHAPTER 10: ENERGY AND INDUSTRIAL DEVELOPMENT

A. Policy Framework

Coastal Act. Notwithstanding the fact that coastal-dependent industrial developments may have significant impacts on coastal resources, the Coastal Act provides for the siting and development of coastal dependent industrial uses, including energy related uses, to ensure that inland as well as coastal resources are preserved while ensuring orderly economic development within the state.[1] Coastal-dependent developments are those which require a site on, or adjacent to the sea to be able to function at all. Coastal-dependent industrial developments are given priority in the Coastal Act over other land uses, except agriculture, and are permitted reasonable long-term growth where consistent with Chapter 3 policies. These developments are encouraged to locate and expand within existing sites.[2] Location and expansion beyond an existing site are permitted only if alternative locations are infeasible or more environmentally damaging, to do otherwise would adversely affect the public welfare and adverse impacts are mitigated to the maximum extent feasible.

Coastal Act section 30262 requires consolidation of oil and gas facilities to the maximum extent feasible and legally permissible unless (a) consolidation will result in adverse environmental consequences and (b) it will not significantly reduce the number of wells, support facilities or sites required to produce the reservoir economically and with minimal environmental impacts. New industrial development is required to be located within or contiguous of existing developed areas able to accommodate it except that new hazardous industrial development is required to be located away from existing developed areas where feasible. Policies require protection against spillage of oil, gas, petroleum products and other hazardous materials. Coastal Act policies include specific criteria for siting new or expanded refineries or petrochemical facilities and thermal electric generating plants.

Local Coastal Program. The LCP contains policies very similar to Coastal Act policies regarding oil and gas development, power plants, coastal-dependent uses, and other development in the coastal zone. The LCP gives priority to coastal-dependent and coastal-dependent industrial uses over other uses in the coastal zone, and consolidation of sites and facilities where feasible is required. The CZLUO identifies categories of uses for particular areas in the County, including industrial, industrial special use, resource extraction, communication, pipeline and transmission lines, public utilities, and electric generating plants. These use designations are termed 'overlays' on land use maps.

The SLO Estero Area Plan regulates development on industrial land at Toro Creek, particularly the Estero Marine Terminal. The proposed revised Estero Bay plan addresses the need for improving coastal access in the area of the Marine Terminal, as well as issues related to Marine Terminal site restoration and environmental mitigation. The San Luis Bay Area Plan designates

[1] PRC Sections 30001.2; 30263-30264, 30413, 30232, 30250, 30222, 30233 (a) (1), 30235, and 30254
[2] PRC Sections 30255, 30260, 30262, and 30263

existing and planned industrial areas, including the Diablo Canyon area, Avila Beach, and Port San Luis. The South County Area Plan regulates the Santa Maria oil refinery and chemical plant and Guadalupe Dunes oil field. The North Coast area does not have any significant energy or industrial facilities, but such development is unlikely in the area, so the proposed revised plan does not address this type of development.

In April 2000, SLO County adopted Ordinance 2899 to regulate tele-communications projects that use public rights of way and property, affecting primarily only land-based fiber optic cable projects. The Ordinance includes conditions of use of streets and public rights-of-ways, construction standards, permitting and licensing, and a framework for the establishment of compensatory fees for use of public rights-of-way and property.

B. Background.

Most energy and industrial facilities in SLO County are within the coastal zone, and include both coastal dependent and industrial uses, as well as resource-dependent facilities. Two major facilities are located in the South County: the Santa Maria Unocal refinery and the Santa Maria Chemical Plant operated by the Union Chemicals Division Carbon Group. Also located in the South County is the Guadalupe Oil Field, formerly operated by Unocal, which stopped production in 1994 and is in the process of being fully abandoned.

The other major existing industrial and energy-related developments are located in Estero Bay and Avila Beach. These include the Chevron USA, Inc. offshore tanker-terminal for the loading of crude oil (which is currently being decommissioned) and onshore storage tanks in Estero Bay, as well as Texaco and U.S. Navy storage tanks. Pacific Gas and Electric Company (PG&E) operates a nuclear power facility in Diablo Canyon, and Duke Energy operates a major fossil-fuel power plant (formerly owned by PG&E) located within the city of Morro Bay. Unocal owns a tanker terminal at Avila Pier which is no longer in operation. Other extractive industries in the coastal zone include removal of sand from the dunes near Oceano and gravel from the Santa Maria riverbed.

There is an extensive network of oil and gas transmission pipelines throughout the county's coastal zone. One of the major pipeline corridors extends from the Guadalupe Dunes oil field and the Santa Maria Refinery to the storage tanks and marine terminal at Avila Beach. The California Public Utilities Commission and California Energy Commission are responsible for regulation of electric transmission lines.

Many energy-related facilities have been modified or closed since certification of the Local Coastal Program. While the power plant at Morro Bay has been purchased by Duke Energy Corporation and is scheduled for upgrading and possible expansion, several of the energy related facilities in the county have closed, or are scheduled for closure in the upcoming years. Several issues arise with the closure of these facilities. The LCP specifically states that the county or the State Department of Parks and Recreation or other agency shall be offered the right of first

refusal for piers no longer needed for petroleum operations. This policy will apply to the Unocal pier at Avila, where California Polytechnic State University (Cal Poly) has proposed use of the pier as a marine research center. Guidance for long-term use of decommissioned power plants (such as will be the case at Diablo Canyon, and at the Chevron marine terminal) was not an issue in the LCP certified in 1988. Because the structure of energy facilities is far more complex than that of piers, policies addressing the abandonment of these facilities must correspondingly be more complex, as well as facility-specific.

While the LCP does address some issues related to completion or abandonment of all above-ground oil production and processing facilities, it does not address the issue of site contamination. Since the LCP was certified in 1988, identification of contaminated sites and subsequent remediation has been a major issue along the San Luis Obispo coast (most notably at Avila Beach and the Guadalupe oil field). In fact, the only two appealed coastal permits related to oil and gas development involved petroleum contamination.[3]

The county does not have jurisdiction over federal leases on outer continental shelf (OCS) drilling. However, in 1986, San Luis Obispo County residents approved Measure A, requiring voter approval of any onshore oil facilities used to support offshore oil development, effectively limiting new offshore development. Since several federal offshore drilling leases have been extended, the issue of onshore oil facilities may again become an issue in the future.

C. Preliminary LCP Implementation Issues

C.1. Fiber Optic Cable Projects

Overview: Since the SLO County LCP was certified in 1988, new fiber optic technology has emerged and the demand for fiber optic cable projects has grown quickly. Transoceanic cable projects are permitted by the State Lands Commission and the Coastal Commission, but transoceanic projects with a coastal component (i.e. that continue from the mean high tide line landward) and land-based fiber optic cable projects in the coastal zone include review by the County under the LCP. Because this technology has expanded so recently, few LCPs, including that of SLO County, have comprehensive policies to address either project-specific or cumulative effects of these projects and environmental impacts of such projects are not always adequately assessed and mitigated.

Policies are needed to encourage the establishment of cable corridors, and subsequently, consolidated landing sites, in order to minimize environmental impacts from fiber optic cable installation. There is already a *de facto* corridor due to hard bottom configurations offshore SLO county that is reaching capacity (the corridor is not wide enough to accommodate many more cables safely). There are also already consolidated landing sites such as Montana de Oro.

[3] A-3-SLO-98-072 (Summary: Excavate subsurface petroleum hydrocarbon contamination under beach and town areas.) and A-3-98-91 (Summary: Field-wide remediation of contaminated soil and groundwater using a variety of proposed technologies).

However, new cable corridors and consolidated landing sites should be identified pro-actively in a planning context (rather than on a case by case basis) in order to minimize environmental impacts and ensure protection of public access.

Lastly, there has been little systematic analysis of the cumulative impacts of fiber optic cable projects in the coastal zone and at landing sites. The LCP contains Industrial Land Use Designations to provide for siting of facilities, but consolidation occurs only on a case by case basis in those areas and onshore industrial sites may not correspond to the environmentally preferable offshore route.

LCP Implementation:

The LCP identifies fiber-optic cables as Communications facilities, which are principal permitted uses in areas designated Industrial or Public Facilities.[4] In addition to the LCP policies which apply through various Combining Designations (such as SRA Sensitive Resource Areas or GH Geologic Hazards), there are policies which address communication facilities as industrial uses. Energy and Industrial Policy 1 gives priority to siting of new or expanded facilities in or adjacent to existing sites. The LCP contains consolidation polices for both pipelines and electrical transmission lines (Policy 12, 18 and 19) but not specifically for communication facilities such as fiber optic cables. The CZLUO 23.08.286 provides standards for Communication Facilities as part of the standards for pipelines and transmission lines. This section includes application requirements for route-specific investigations, information requirements specific to stream crossings, site restoration plan requirements and requires that projects be approved in ESHA areas only where the Planning Commission can find that the project is consistent with Energy and Industrial Policies 7-12 (Pipelines). A Development Plan is required for installation of fiber optic cables, which is a discretionary decision by the Planning Commission requiring environmental review and subject to appeal to the Board of Supervisors or the Coastal Commission.

The following table summarizes all ocean-based cable projects in SLO County since 1988. The table shows that most fiber optic projects have been proposed within the last two years.

[4] LCP Framework, Table O and page 6-43

Table 10-1: Ocean Based Fiber Optic Cable Projects since 1988

COMPANY	LOCATION	CCC STATUS
Golden Thread	Harmony, SLO	No application yet
MCI Worldcom and MFS Globenet Japan-US Segment 1 Southern Cross Empty conduits	Montana de Oro, SLO	Approved 4/17/00
Global West	Morro Bay, Santa Barbara, Manhattan Beach and San Diego	Approved 12/12/00
PC & PAC Landing Corp (3) PC-Segment E PC-Segment S PAC-Segment 1	Grover Beach, SLO	Approved 6/13/00
AT&T – China US S7	Montana de Oro, SLO	Approved 5/11/00
AT&T – China US E1	Montana de Oro, SLO	Approved 6/13/00
AT&T – Japan-US Segment 9 (south end)	Montana de Oro, SLO	Application pending
AT&T (3) TPC-5T1 HAW 5 TPC-5G	Los Osos and Montana de Oro State Park	Approved 1992, Active
AT&T (2) HAW 2 HAW 3	 Estero Bay Morro Bay	HAW 2 is inactive, removed to 1000 fathom water depth; HAW 3 abandoned in place

Currently, the County's LCP provisions specific to communications facilities are fairly general and do not reflect some of the issues raised by this emerging technology. For example, during the review and approval process of some of the projects noted above, various environmental and Coastal Act issues arose repeatedly, including impacts to public access, environmentally sensitive habitat areas, marine mammals and marine resources.

Fiber-optic cable projects have some impacts that are different from pipeline projects. For example, borings under stream crossings or in the nearshore use bentonite that can be released into surface waters. Also, construction activities can impact public access as staging areas are frequently located in public parking areas or shoreline areas. For example, in the MCI Worldcom/MFS Globenet project the County found that project construction activities restricted access to public parking areas thus impairing public coastal access. As a result, parking improvements were negotiated. In addition, an offshore bentonite release caused by project construction activities resulted in the closure of a public parking lot.

In addition to site impacts, the nature of offshore geology and the need to avoid hard-bottom habitat limits potential corridors for ocean-based cables, and associated landing sites. There should be advanced planning to locate future consolidated landing sites for ocean-based fiber optic cable projects, or to consolidate corridors for land-based cables. Existing consolidated

landing sites such as Montana de Oro are reaching capacity and new ones need to be identified, consistent with other resource protection policies of the LCP, to meet demand for future projects.

The County adopted Ordinance 2899 in April 2000, which regulates telecommunications projects that use public rights of way and property, thus affecting primarily land-based fiber optic cable projects. The Ordinance includes conditions of use of streets and public rights-of-ways, construction standards, permitting and licensing, and a framework for the establishment of compensatory fees for use of public rights-of-way and property. However, the ordinance has no language on avoidance or mitigation of environmental impacts of telecommunications projects, except general mention of CEQA requirements. And, the ordinance has not been certified as part of the LCP.

Consistency Analysis: While there are LCP policies for consolidation of pipelines and electrical transmission corridors and general standards governing communication facilities, they are not sufficient to address the full range of issues raised with new and emerging technologies such as fiber optic cables. Projects have been reviewed on a case by case basis but do not assure that impacts will be minimized and that landing sites and land-based corridors will be consolidated. For example, the recent Global Photon project proposed to be located at a different landing site than other fiber-optic cable projects located in this area. But analysis of this landing site to accommodate future projects in this same location was not done and consolidation therefore not assured in conformance with Coastal Act policies. The LCP should be updated to include policies to ensure consolidation and to address impacts on coastal zone resources from these fiber optic cable projects. Without an update of the LCP, projects will continue to be assessed on a case by case basis, with no guidance as to preferred cable corridors and consolidated landing sites and the cumulative effect of present and future projects may cause greater damage to coastal zone resources.

Preliminary Policy Alternatives:

Preliminary Recommendation 10.1 Update LCP to Address Fiber Optic Cable Projects

The County could take several steps in updating its LCP Area Plans to plan for such projects. Land Use designations could be revised to identify consolidated cable corridors and consolidated landing sites via overlays. Additional mitigation measures could be developed to address potential impacts from drilling such as requirements for Drilling Fluid Monitoring Plans. Monitoring requirements could be included that provide for qualified monitors onsite with ability to stop drilling should fractures occur which could releases bentonite. The CZLUO could be revised to include more specific mitigation for access/recreation impacts, avoidance or minimization of sensitive resources during construction, as well as mitigation measures such as erosion control, revegetation, and other measures necessary to protect scenic resources and habitat values.

C.2. New and Expanded Power Plants

Overview: The Coastal Act provides measures to protect coastal resources from power plant siting while balancing the need to allow reasonable expansion of such facilities. Under provisions of Section 30413 of the Coastal Act, the Commission was required to designate areas unsuitable for power plant construction. The Energy Commission has permit authority over power plant siting but it cannot approve any power plant or related facility in an area designated by the Commission as unsuitable. The Coastal Act also provides for later Commission involvement in the Energy Commission siting procedures within area not designated as unsuitable. Designations made by the Commission as part of its power plant siting study may not preclude reasonable expansion of existing power plants. Where new power plant facilities are necessary, the Coastal Act policy encourages expansion of existing power plant sites, thus protecting undeveloped sites. The Commission adopted its power plant siting study, "Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976", in September 1978 which was revised and readopted in December 1985. This revised report was in effect at the time of LCP certification in 1988.

The California Energy Commission (CEC) has exclusive jurisdiction over thermal power plants of 50 megawatts or greater. In these cases, the CEC preempts the jurisdiction of all other state and local agencies (including the Coastal Commission and local government) when it certifies a new, modified or expanded power plant. However, Coastal Act Section 30413 requires the Coastal Commission to submit a report to the CEC analyzing the proposed power plant project's conformity with the Coastal Act's Chapter 3 policies and the policies of the certified LCP. Public Resources Code Section 25523(b) requires the CEC's decision on any application to include "specific provisions to meet the objectives" of the Coastal Act and LCP "unless the [CEC] specifically finds that adoption of [the Coastal Commission's] provisions ,,, would result in greater adverse effect on the environment or that [said] provisions..would not be feasible."

Since SLO County's LCP was certified in 1988, the energy industry has changed markedly with deregulation, and demand for power has increased with increased use of electronic technologies. These changes have led to plans for expansion or development of new power facilities. However, the only major power plant in SLO County jurisdiction is the Diablo Canyon nuclear power plant. The power plant owned by Duke Energy in Morro Bay that is proposed for expansion, is in the jurisdiction of the City of Morro Bay and thus not part of this LCP review.

The north coast area of San Luis Obispo County to the junction of US Highway 101 and Highway 46, as part of the Big Sur coastal area, is designated by the Coastal Commission as unsuitable for power plant construction. Most of the Estero Bay and Morro Bay areas including the beach park between the Morro Bay power plant and Estero Bay, are also designated as unsuitable. The area from Diablo Canyon south to Port San Luis is not designated primarily because of the existing Diablo Canyon power plant and transmission line corridors.

LCP Implementation: SLO County does not have jurisdiction over the expansion of Duke's Morro Bay power plant, as Morro Bay has its own certified LCP. Most of the area surrounding the City land where the Morro Bay plant is located is owned by the State and not by the County, further limiting the County's potential jurisdiction. SLO County does, however, have jurisdiction over any development related to power transmission lines in the County. The SLO Coastal Plan requires "transmission line rights-of-way shall be routed to minimize impacts on viewsheds in the coastal zone, especially in scenic areas, and to avoid locations in or adjacent to significant or unique habitat, recreational, or archaeological resources, whenever feasible. Scarring, grading, or other vegetation removal shall be minimized and disturbed areas shall be revegetated with plants similar to those in the area." The Plan also requires "undergrounding" of transmission lines when views may be affected, and consolidation of transmission corridors

SLO County's Coastal Policies address power plant siting and expansion in a general way, stating that "when new sites are needed for industrial or energy-related development, expansion of facilities on existing sites or on land adjacent to existing sites shall take priority over opening up additional areas or the construction of new facilities..." and that "adverse environmental impacts from the siting or expansion of coastal-dependent industrial or energy developments shall be mitigated to the maximum extent feasible." The Plan also states that "priority shall be given to coastal-dependent industrial uses. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support." The County policies are generally consistent with the Coastal Act policies related to power plant siting and expansion.

Preliminary Policy Alternatives:

Preliminary Recommendation 10.2. Update LCP Area Plans to Address Future Energy Facility Demand

It appears than many new or expanded power plants are planned for California in the near future.[5] Recent statewide energy problems related to deregulation also make it likely that pressure will continue to increase for new and expanded power facilities. This, in turn, may lead to greater numbers of transmission lines and ancillary facilities. Although there are no current proposals to locate new power plant facilities in the SLO coastal zone, the update of the Area Plans should anticipate increased demand for such facilities and ensure that the LCP contains adequate guidance for locating and mitigating impacts from energy facilities.

C.3. Managing the Phaseout of Energy and Oil Facilities

Overview: The phase out of existing energy facilities is likely to be a growing concern. While the power plant at Morro Bay has been purchased by Duke Energy Corporation and is scheduled for upgrading and possible expansion, several of the energy related facilities in the County have

[5] http://www.energy.ca.gov/sitingcases/backgrounder.html

closed, or are scheduled for closure in upcoming years. The Unocal pier at Avila has been decommissioned; the Chevron marine terminal is being decommissioned, and the PG&E Diablo Canyon nuclear power plant will eventually be decommissioned in stages. Given the anticipated phaseout of these major facilities, the SLO LCP needs to include the most current standards to govern decommissioning activities, remediation, and rezoning of land uses.

The two significant environmental issues for PG&E's Diablo Canyon Nuclear Power Plant are: agreement between the Central Coast Regional Water Quality Control Board and PG&E to resolve receiver water impacts due to impingement, entrainment and thermal discharges; and the proposed construction of a 'dry-cask' spent fuel storage facility near the plant. Initial staff research indicates that Diablo Canyon may begin an incremental decommissioning process within a decade, and within a year plans to apply for permits to construct the new dry cask spent fuel storage facility, although no permits have yet been filed. SLO County may thus have a permitting role for both a new fuel storage facility and the plant's eventual decommissioning. The San Luis Obispo Bay Area Plan Standards designate Diablo Canyon as an EX Combining District, do not encourage expansion in this area, and discourage encroachment of other development that may hinder the operating capabilities of the plant.

LCP Implementation: Regarding oil and gas facilities, the LCP states that "upon completion or abandonment, all above-ground oil production and processing facilities shall be removed from the site, and the area in which they were located shall be restored by appropriate contouring, reseeding, and planting to conform with surrounding topography and vegetation."

Regarding abandonment of piers, the LCP states that "at such time as piers are no longer needed for petroleum operations, the county or the State Department of Parks and Recreation or other agency shall be offered the right of first refusal, if the pier is determined to be appropriate for recreation use." To date, the County has not reviewed any permits for phaseout of power plants but has been involved in permitting the decommissioning of oil facilities, primarily at Guadalupe and Avila Beach.

Consistency Analysis: At Guadalupe and at Avila Beach, the County has implemented actions related to the phase-out of major energy facilities. For example, at Guadalupe the County issued a permit for abandonment, site restoration and ultimate protection of the area as open space through a required conservation easement The County's action has adequately addressed impacts connected with this phase out.

The Commission as well as the County has gained experience in identifying new information and management measures to improve mitigation of impacts from abandonment of facilities. For example, requirements for deadlines for abandonment and site restoration, along with mitigation fees will help to establish financial incentives for rapid site cleanup and restoration. Also, the Commission has overseen decomissioning activities at San Onofre Nuclear Generating Plant in Southern California. This experience can provide new information for incorporating more advanced standards and management measures for abandonment and decomissioning of facilities

into an updated LCP. While the County LCP as part of the EX Combining Designation contains policies to address some facilities phase out, most specifically oil and gas (CZLUO 23.08.174). Other provisions of the EX Combining designation emphasize development standards primarily for new construction rather than phase out. The County should apply the new information and techniques learned through experience to strengthen the LCP policies and standards for abandonment procedures, site remediation, and rezoning for all types of energy, communications and oil and gas facilities.

Preliminary Policy Alternatives:

Preliminary Recommendation 10.3 Update LCP to Address Abandonment of Energy Facilities

As part of the Area Plan Updates the County should update and revise standards and requirements governing abandonment and clean up of sites in the EX Combining Designation. Updating of standards could include revised requirements that operators submit an Abandonment and Restoration Plan within 60 days of permanently ceasing operations and require bonding or other financial securities to ensure that abandonment and clean up procedures are carried out in an appropriate and timely manner.

CHAPTER 11: COMMERCIAL FISHING AND RECREATIONAL BOATING

A. Policy Framework

The Coastal Act states that the economic, commercial, and recreational importance of fishing activities shall be recognized and protected, and that facilities serving the commercial fishing and recreational boating industries shall be protected, and where feasible, upgraded. Recreational boating use is encouraged by providing for the development of berthing space, increasing facilities and limiting non-water-dependent uses. Existing space shall not be reduced unless demand no longer exists or substitute space has been provided. The needs of the commercial fishing industry have priority over recreational boating. Diking, filling, and dredging are allowed for the purposes of protecting commercial fishing facilities. Recreational boating facilities should be designed and sited not to interfere with the needs of the commercial fishing industry. Additionally, uses of the marine environment shall be carried out in a manner that will maintain healthy populations of all species of marine organisms.

The LCP states that commercial fishing and recreational boating shall be protected and, where feasible, upgraded, although commercial fishing shall remain a priority over recreational boating. Also, oceanfront development should give priority to boating facilities, as otherwise consistent with other policies of the Coastal Act. The LCP also sets priorities for uses within the San Luis Bay harbor area as follows: coastal-dependent (commercial fishing and mariculture/aquaculture, sport fishing, recreational boating and other oceanfront recreational uses, and energy-related facilities), coastal-related, and finally, other uses. The San Luis Bay Area Plan states that prior to any approval of any use which is not coastal-dependent, the harbor district shall make a finding that adequate resources and services have been reserved for all coastal dependent uses proposed in the master plan. The North Coast Area Plan contains a standard requiring that the San Simeon Harbor be limited to small-scale recreational boating.

B. Background

There are three harbors in San Luis Obispo County: San Luis Bay, Morro Bay, and San Simeon Bay. The three major activities at the harbors are petroleum shipping, commercial fishing, and recreational boating. Each of the three harbors affords support to the commercial fishing industry; Port San Luis and Morro Bay harbors provide docking, mooring, and processing facilities, while San Simeon functions as a marginal shelter during adverse weather conditions. Commercial fishing is an important source of income for the county; in 1998, the commercial fishery landings at the three harbors were over 6 million pounds valued at $6.4 million.[1] Around Morro Bay, fishing is an important industry, second only to tourism. Tourism, however, is

[1] San Luis Obispo Council of Governments. *1999 Regional Profile.* October, 1999.

dependent upon the commercial fishing industry in that tourists come to enjoy the fishing village ambiance provided there, as well as to participate in recreational boating.

Commercial fishing has long been an important component of the economy of the Central Coast; however, 1998 marks the fifth year of decreasing pounds of landings for San Luis Obispo County. Corresponding to this steady decrease, demand for commercial fishing facilities has declined in recent years and at the same time demand for recreational boating facilities has increased. Within Port San Luis, the number of moorings for commercial fishing boats has been steadily decreasing due to the lack of demand. In 1994, commercial fishing boats occupied 170 moorings; today there are only 128 moorings.[2] Because of the continuous need for recreational boating facilities in the Central Coast, these moorings are being converted to recreational boating use. Although Port San Luis once performed solely harbor enterprise functions, it now has expanded to provide many other types of public serving activities, including ancillary uses such as beach concessions, surfing and camping, restaurants, fresh and live fish sales, fuel and ice facilities, and boat yard repair facilities.

Historically, there has been a shortage of recreational boating facilities on the central coast, especially for slips and moorings. An early study by the California Department of Navigation and Oceanic Development indicated that statewide, the greatest need for berthing facilities was within San Luis Obispo County. The 1994 Port San Luis Master Plan noted the need to double the Port's ability to provide services for recreational boats.

Currently at Port San Luis there are 146 moorings for "pleasure" boats (sail and power boats) with a waiting list of 14. Demand for moorings is greater than is evidenced by the current waiting list; prior to the implementation of a waiting list fee, the list contained more than 300 names. The LCP notes that providing dry storage and improving boat launch facilities will be the most feasible approach to help in alleviating boating demand.

At the time of the adoption of the Morro Bay State Park General Plan in 1988, the state park marina had 100 slips and the Plan proposed 25-50 additional ones. Currently the marina provides 115 recreational boat slips, with a waiting list of approximately 20. At the four other marinas in Morro Bay, there are a total of approximately 100 slips, also with waiting lists. There are between 100-200 moorings in the bay, some privately owned. There is a waiting list for the moorings available for lease. At San Simeon Harbor there is a pier for fishing, and moorings for commercial fishing boats.

In addition to the facilities listed above, there are three boat launch sites in the county, at Leffingwell Landing on the North Coast, Tidelands Park in Morro Bay and Morro Bay State Park. A fourth boat launch ramp for small shallow-draft boats previously existed in Baywood Park, but was essentially lost in association with a hotel expansion project approved by both the County and the Commission on appeal. The County Parks Department is currently in the process of analyzing a replacement ramp at a nearby location that has been funded by the California Department of Boating and Waterways. As noted below, some concerns have been expressed that the new boat ramp might impact sensitive resources of Morro Bay.

[2] Port San Luis Harbor District. *Port Master Plan.* May, 1994.

C. Preliminary LCP Implementation Issues

Since LCP certification, the following preliminary implementation issues have been raised:

- The loss of a small boat launch ramp in Baywood Park, and the impact that a proposed replacement ramp may have on wetland resources, particularly sensitive waterfowl habitats;
- The potential impacts that increased recreational boating (e.g., kayaking) may be having on wetland and sand dune habitats Morro Bay that were previously isolated from human activities;
- The impacts that proposed visitor-serving and commercial development on an upland areas owned by the Port San Luis Harbor District might have the provision of adequate boating and fishing facilities and other coastal resources; and,
- Reducing polluted runoff generated by boating activities and facilities.

Preliminary Policy Alternatives:

Preliminary Recommendation 11.1: Develop a Program to Educate Boaters on the Sensitive Habitat Values of Morro Bay and Other Aquatic Habitats.

The LCP could include a program that encourages new and existing facilities that serve the boating community to develop and distribute literature, and provide interpretive signs, that inform and encourage boaters to protect sensitive habitat areas and minimize pollution.

Preliminary Recommendation 11.2: Coordinate the Review of the Proposed Boat Launch Ramp in Baywood Park with Commission Staff, the Department of Fish and Game, and other involved regulatory Agencies and Interested Individuals

As the design and environmental analysis of the proposed boat launch ramp progresses, continued coordination with Commission staff, as well as with biological experts and other regulatory agencies and interested parties, should be pursued.

Preliminary Recommendation 11.3: Update the Port San Luis Master Plan and Associated Sections of the San Luis Bay Area Plan

Recognizing that circumstances regarding the operation, maintenance, and financing of Port San Luis Harbor facilities have changed since the relevant sections of the LCP were certified, a comprehensive update of the Port San Luis Master Plan and associated LCP provisions is in order. Given the wide range of coastal resource issues raised by future development of uplands owned by the Port San Luis Harbor District, this update should be closely coordinated with Commission and County staff.

CHAPTER 12: IMPLEMENTATION PROCEDURES

A. Overview

A core principle of the Coastal Act is to maximize the public's ability to participate in planning and regulatory decisions. To facilitate such participation, the Coastal Act and the California Code of Regulations establish specific procedures for processing coastal development permits (CDPs) at the local level following LCP certification, as well as for administering amendments to the certified plan. This includes specific procedures regarding the provision of public notices and hearings, and opportunities to appeal certain local decisions on CDPs to the Coastal Commission.

Another important objective is to ensure that the development review process provides adequate information to identify potential impacts to coastal resources and analyze LCP consistency. At the same time, these procedures should be structured in a way that maximizes efficiency. Thus, processing requirements may vary depending on the type, extent, and significance of the development, or plan change, being proposed. The Coastal Act, California Code of Regulations, and the LCP all provide a range of procedures to account for this.

This chapter provides a preliminary evaluation of whether LCP procedures, and the way in which they are implemented in San Luis Obispo County, conform to the Coastal Act and the California Code of Regulations. Many of the identified procedural issues require further investigation and coordination with County staff, as well as public input, and will therefore be addressed in a subsequent report.

B. Analysis of LCP Coastal Development Permit Procedures

Defining Development

Identifying what activities constitute "development", and therefore require a Coastal Development Permit, is a fundamental step in the development review process. The definition of development contained in the CZLUO (Section 23.03.040a and p. 11-11), and also within Appendix A of the Coastal Plan Policies (p. A-1), is the same definition as provided by Coastal Act Section 30106.

Of the various actions considered to be development, the division of land poses a unique set of issues. The issuance of *Certificates of Compliance*, which in some circumstances may legitimize lots in a manner that is inconsistent with LCP standards, has been identified as a particular area of concern (see Chapter 5, Agriculture). Establishing greater regulatory controls within the LCP over this process of parcel definition, which may also require changes to the Subdivision Map Act, should be pursued at both the State and local level. Within the LCP, this might include identifying all Certificates of Compliance (not just Conditional Certificates of Compliance) as development that requires a CDP.

Coastal Zone Boundary and Permit Jurisdiction

An equally important step is identifying whether the development is located in the coastal zone, and if so, whether it is in the permit jurisdiction of the County or the Coastal Commission. In general, the County uses LCP Maps to identify whether a project is located within the coastal zone established by the state legislature. To the knowledge of the Commission staff, no problems have been encountered regarding the use of these maps. Nevertheless, it would be appropriate to review these maps to confirm that they accurately reflect the coastal zone boundary.

Most development within the San Luis Obispo coastal zone falls within the CDP jurisdiction of the County. However, some development falls within the original jurisdiction of the Coastal Commission. This includes all development seaward of the mean high tide line, on tidelands and historic public trust lands (e.g., filled tidelands), and within Areas of Deferred Certification (ADCs)[1].

Overall, the County appears to be accurately informing applicants when a development project requires a CDP from the Coastal Commission. Sometimes, however, the determination of permit jurisdiction is a difficult task. For example, when reviewing a proposed shoreline protection device, it is not always clear if the development may extend seaward of the Mean High Tide line, due to the dynamic nature of shoreline profiles and the way this affects the intersection between the mean high tide line and the land. In instances such as these, it is important for the County and Commission staffs to coordinate on the determination of permit jurisdiction. It also may be appropriate to develop a coordinated permit review procedure when development straddles permit jurisdictions to avoid, where feasible, the need for separate coastal development permits from the County and the Commission. Implementation of this measure may require a revision to the Coastal Act.

With respect to ADC's, many of the issues that were the basis for deferred certification have since been resolved. For example, both the Sweet Springs and Otto (Elfin Forest) whiteholes in the South Bay Urban Area have been acquired for open space preservation, thereby eliminating the potential for residential development that was the basis of deferred certification. The County should be encouraged to update the LCP to reflect such changed circumstances, eliminate the whiteholes, and establish local permit jurisdiction over future development in such areas.

Exemptions and Exclusions

All development in the coastal zone requires a CDP unless exempted or excluded by the Coastal Act and/or LCP. Both the LCP and Coastal Act identify specific types of development that are *exempted* from CDP requirements. *Exclusions,* most commonly in the from of *Categorical Exclusions,* differ from exemptions in that they refer to a process under which the LCP can exclude certain types of development in specific geographic regions from the requirement to obtain a CDP. Such exclusions cover development that is not otherwise exempted by the Coastal Act from CDP requirements, and requires Coastal Commission approval by a two-thirds majority

[1] ADCs or "whiteholes" are specific geographic regions that were excluded from the Commission's original certification of the San Luis Obispo County LCP.

in order to be incorporated into the LCP. Categorical exclusions typically eliminate the need for new residential development within urbanized areas to obtain a CDP, although any category of development within a specified geographic region can be excluded from CDP requirements. In order to approve an exclusion, the Commission must find that there is no potential for significant adverse effect, either individually or cumulatively, on coastal resources or on public access to or along the coast.

Development that is exempted by the LCP from CDP requirements can be found in Section 23.03.040d of the CZLUO. However, the types of projects that are exempted from CDP requirements by this LCP section are, in some cases, significantly different from the exemptions provided by the Coastal Act.

For example, both the Coastal Act and the LCP exempt repair and maintenance activities that do not add to or enlarge the object being repaired/maintained. However, the Coastal Act conditions such exemptions on certain criteria that can be found in Section 13252 of the California Code of Regulations. These criteria, which require a permit for certain types of repair and maintenance activities that pose potential adverse impacts to coastal resources, are not reflected in the LCP's exemptions. Thus, repair and maintenance activities that should require a permit pursuant to the Coastal Act and California Code of Regulations are exempt pursuant to CZLUO Section 23.03.040.

Similarly, Section 30610 of the Coastal Act exempts only those temporary events that do not pose significant adverse impacts on coastal resources, as further specified by guidelines adopted by the Commission. The Commission recently evaluated the LCP's provisions regarding temporary events as part of the LCP Amendment that incorporated the Avila Beach Specific Plan into the LCP. Coordination on this issue between the county and the Commission led to an update of LCP provisions regarding temporary events, consistent with the Commissions guidelines, in the San Luis Bay Area Plan. A similar update should occur within the CZLUO so the updated permit requirements for temporary events apply countywide.

Finally, the range of development types exempted from CDP requirements by the LCP is much broader than the exemptions provided by the Coastal Act. Bringing these exemptions into conformance with the Coastal Act should therefore be pursued.

With respect to Categorical Exclusions, additional research is needed to determine if any such exclusions have been approved by the Commission within the San Luis Obispo Coastal Zone, and if so, how they are being implemented by the County and what affects they may be having on coastal resources.

Types of Coastal Development Permits

The San Luis Obispo County LCP divides CDPs into various subsets. The most common are the Land Use Permits, which take the form of Plot Plans, Minor Use Permits, and Development Plans. Plot Plans are processed for projects that do not raise significant resource issues and are located outside of the geographic regions where development is appealable to the Coastal Commission. Minor Use Permits, which make up the majority of Land Use Permits/CDPs approved by the County, are processed for any development within an appealable area, and for

non-appealable projects that raise significant resource issues. Development Plans are processed for the larger, more complex projects that necessitate the most rigorous form of permit review.

Other types of CDP's issued by the County include: land division approvals, which can take the form of Subdivisions/Tentative Maps, Lot Line Adjustments, and Conditional Certificates of Compliance; grading permits; and emergency permits. In most instances, grading activities are associated with new development that is processed as a whole via the Land Use Permit process, thereby negating the need for a separate grading permit. However, there are some cases where grading is the only development proposed on the site. In such situations, the Grading Permit constitutes the CDP for the grading activity.

Most of the different types of CDP's described above have specific application, noticing, hearing, and appeal procedures established by the CZLUO (Title 23 of the County Code). Exceptions to this include the procedures for land divisions, which are specified by a separate Title of the County Code (Title 21).

Amendments and Extensions of Locally Approved CDP's

The CZLUO also establishes provisions for amending and extending the various types of CDP's described above. Problems that have been encountered with respect to amendments and extensions, and require further coordination with San Luis Obispo County as well as potential changes to the LCP include:

- The appealability of amendments and extension;
- What types of changes to an approved project require an amendment and what changes can be accommodated administratively; and
- Noticing requirements for amendments and extensions.

Allowable Uses

The fundamental tool for determining whether a certain type of development is allowable within a specific land use designation is Table O, which can be found in the LCP's Framework for planning. A significant problem with this table, as described in the Chapter regarding Environmentally Sensitive Habitat Areas, is that it does not acknowledge that LCP Combining Designations that overlay land use designations further restrict the types of uses that may be allowed on a particular development site. This has the potential to cause problems at the review stage (e.g., if the proposed use is not analyzed for conformance with Combining Designation standards), but also may create false expectations for property owners regarding the type of development allowed on a site.

Additional problems with Table O are: 1) it is silent on the appeal status of land divisions (i.e., it does not, but should, identify that land divisions are conditionally permitted); and, 2) it does not clearly differentiate between other listed development as to what is <u>the</u> principally permitted use

and what is conditionally permitted. This creates difficulties in determining the appealability of projects, as further discussed in Part III of this Chapter.

Application Requirements

The information obtained at the permit application stage plays a crucial role in the ability of County staff and the decision making bodies to effectively assess the potential impacts of the proposed development on coastal resources. The LCP provides adequate flexibility for the County Planning Director to require the information necessary to complete such an assessment. However, it is unknown how frequently additional information, beyond what is established by the LCP as the minimum requirements, is requested by County planning staff. While this is an essential tool for addressing unique circumstances that may arise, it is preferable, where feasible, to have the full range of information that is required to accompany CDP applications identified by the application requirements.

Recognizing that the extent of information needed at the application stage depends on the type location, and intensity of development being proposed, the LCP appropriately establishes different application requirements for each type of CDP. Other chapters of this report indicate where additional information, beyond what is required or being obtained at the application stage, is needed to address particular coastal resource issues. This will be supplemented with additional research, analysis, and coordination with County staff and interested parties to distinguish more the specific information needs that might not be adequately addressed by current application requirements or implementing procedures.

In general, the Commission staff's experience in tracking locally approved permits indicates that a potential problem with the County's implementation of application requirements is that some of the information required by the LCP at the application stage is instead being obtained as a condition of approval. It is typical to see conditions of permit approval that require grading plans, landscape plans, drainage plans, and erosion control plans to be submitted for the review and approval of County staff before construction commences.

The potential problem with this approach is that the information may be needed to effectively evaluate project consistency with LCP standards. For example, until the full extent of grading and site preparation are known, it may be difficult to determine consistency with LCP standards such as those that establish minimum setbacks from sensitive habitats. Similarly, until the necessary drainage infrastructure is identified, it is difficult to assess conformance to water quality protection requirements. For the development of bluff top lots, unresolved drainage issues can lead to potential impacts to coastal access and recreation if it is determined at a later date that rip-rap or other energy dissipation devices must be installed on the beach to prevent erosion of the bluff by project drainage.

Noticing

As noted above, the different types and levels of CDP's have different processing requirements and noticing standards. The minimum requirements for noticing local CDP applications and approvals are established by Sections 13560 – 13572 of the California Code of Administrative Regulations. However, the noticing requirements of the LCP, and the local methods for

implementing them, raise question regarding the LCP's conformance with these statewide standards. Potential inconsistencies include, but are not limited to, the following:

- Grading permits authorizing development activities that are not otherwise covered by a Land Use CDP are not being noticed and processed as a CDP;
- The Commission is not consistently provided notice of pending CDP applications, particularly those that are not appealable to the Commission;
- The Commission is not being mailed Final Local Action Notices (FLANs, also referred to as Notices of Final Local Action, or NOFAs) for all locally approved CDPs, particularly those that are non-appealable;
- The Commission occasionally receives FLANs/NOFAs prior to the expiration of the local appeal period;
- Notices of pending applications and final local action do not always identify whether the project is appealable to the Coastal Commission, or provide the correct timeline for such an appeal;
- While the findings for the local approval are consistently included with FLANs, these findings are not always complete. For example, a finding of project consistency with Coastal Act access and recreation policies is not always made for projects between the first public road and the sea.
- The Commission may not always be receiving notice of emergency permits granted by the County.

Additional coordination with the County is needed to resolve these noticing problems and, where necessary, bring LCP noticing provisions into conformance with the California Code of Administrative regulations.

Open Space Easements and Public Access Documents

Better coordination between the County and the Commission regarding the format and content of legal documents related to open space and public access easements is needed to carry out Section 13574 of the California Code of Administrative Regulations. Changes to the LCP that would enhance such coordination should also be considered.

Condition Compliance and Enforcement

Ensuring effective compliance with permit conditions, and responding to violations of permit requirements, is an essential component to implementing successful coastal resource protection. Actions that could enhance this aspect of the County's coastal program may include:

- developing a tracking system for condition compliance review that could be available to all County departments and Commission staff; and,
- coordinating responses to violations with Commission staff and other involved regulatory agencies.

Emergency Permits

The procedures for emergency permits provided by Section 23.03.045 of the CZLUO are generally conform to Section 13329 of the California Code of Regulations. However, as noted above, there appears to be room for improving the noticing of emergency permits approved by the County to the Commission.

In addition, it is also often difficult to determine whether a certain situation qualifies as an "emergency" as defined by the Coastal Act. County staff should be encouraged to consult with the Commission in making such determinations, as they often do. This is critically important when the emergency action may result in development on lands that are within the permit jurisdiction of the Coastal Commission.

Variances

Section 23.01.045 of the CZLUO allows the local decision making body on a CDP application to grant a variance from a strict application of LCP requirements. As discussed in the Environmentally Sensitive Habitats Chapter of this report, the approval of variances has, in some cases, undermined important coastal resource protection provisions of the LCP. Therefore, incorporating additional limitations regarding the use of variances into the LCP should be considered. One such limitation could be to prohibit the use of variances where the project will adversely impact Environmentally Sensitive Habitats.

Non-conforming Uses, Structures, and Parcels

Chapter 9 of the CZLUO provides standards for development on sites that have existing uses, structures, or signs that do not conform to current LCP standards. Various issues regarding the interpretation of these standards have been raised during recent appeals, giving rise to the need to clarify the application of these standards.

A non-conforming situation often encountered that not addressed by Chapter 9 of the CZLUO, is the development of existing parcels that do not conform to minimum parcel sizes. Incorporating new standards for building on and adjusting such parcels could help minimize the cumulative impacts to coastal resources posed by future development, relocation, or expansion of these sub-standard lots.

C. Analysis of LCP Appeals Procedures

Determining What Projects are Appealable

In carrying Coastal Act Section 30603(a)(4), the LCP states that any development not listed in Table O as a Principle Permitted (PP) is appealable to the Coastal Commission (CZLUO Section 23.01.043c(4). Table O, however, does not include all development – most notably land divisions. This has resulted in uncertainty regarding the appeal status of this development. Table O also does not clearly identify what constitutes the principally permitted use within a certain land use designation for two reasons: 1) it includes more than one principally permitted use per land use designation; and, 2) uses that are subject to special standards, and therefore conditional, are in some cases listed as being principally permitted. Thus, it is difficult to determine when a project is appealable because it does not constitute the principally permitted use. Table O should therefore be revised to indicate a single principle permitted use per land use designation (with all other uses being conditional) and should list all development anticipated in each land use designation, particularly land divisions.

A related issue that is not addressed by the LCP is the appealability of a project that involves both conditional use(s) and a principally permitted use (i.e., is the whole project or just the portion involving the conditional use appealable?) To ensure that the cumulative impacts to coastal resources posed by projects involving conditional uses are addressed in a comprehensive fashion, it is recommended that the LCP clarify that if any component of a proposed development constitutes a conditional use, the entire project shall be appealable to the Coastal Commission.

Finally, the use of LCP maps to determine appealability presents another set of problems. Currently, the LCP designates any development within a "Sensitive Resource Area" (SRA) as appealable. As detailed in the Chapter of this report regarding Environmentally Sensitive Habitats, the delineation of such SRA's provided by LCP maps do not always accurately reflect on the ground resources. As recommended in the Chapter of this report regarding Environmentally Sensitive Habitats, a combined approach of updating these maps, and determining the presence and extent of SRA's in the field, is recommended.

Similarly, the LCP refers to the adopted post-certification appeals maps to determine where development is appealable because it is located between the first through public road and the sea or within 300 feet of any beach.. These maps also need to be updated. Thus, a conclusion regarding appealability under these criteria should be based on the configuration of roadways and landforms as they currently exist, rather than as shown on the maps. An exception to this is that roads constructed without the proper permits should not be considered as the first public road.

Minimizing the Number of Appeals

Particular changes to local permit processing procedures may help minimize the number of CDP's being appealed to the Commission. These include:

- Providing Commission staff with a copy of the County staff report/recommendation prior to the local action;

- Making better use of LCP provisions that allows the County to modify or reverse a local decision on a CDP that is appealed by two Coastal Commissioners; and

- Establishing procedures that would allow the County to expeditiously incorporate additional mitigation measures or minor project revisions within an appealed CDP. The additional mitigation measures or project revisions would be determined in coordination with the applicant and County and Commission staff, and would be designed to resolve the issues that were the basis of the appeal.

Processing Appeals

When projects are appealed to the Commission, various problems have been encountered in providing the Commission with the relevant information developed during local review. Locating and reproducing this material can be difficult for many reasons, including other workload demands, the size of the materials, and the County's process of filing information provided at public hearings. Nevertheless, the Commission's ability to obtain all relevant information in a timely manner is essential to the efficient processing of appeals.

A potential means of addressing this issue is for the County to have a complete summary of all information that is submitted and developed during the project review. This could be a running tally, started at the initial application, and added to as the local review process proceeds. Upon appeal to the Commission, the list would be forwarded to the Commission staff, along with all relevant staff analyses, technical reports, and correspondence. Commission staff could request the additional materials at a later date, on an as need basis.

Preliminary Procedural Alternatives

Preliminary Recommendation 12.1: Update LCP and Post-Certification Maps

- The County and the Commission staff should coordinate a review of LCP Maps for accurate delineations of coastal zone boundary and sensitive resource areas and update as necessary.

- The Coastal Commission staff, in coordination with the County, should update the Post-Certification maps to accurately reflect permit and appeal jurisdictions.

- Recognize that the appealability of development based on geographic criteria (e.g., the presence of an SRA, a location between the first public road and the sea) should be determined according to what is on the ground as opposed to what is shown on the LCP and Post-Certification Maps. An exception to this is that roads constructed without the proper permits should not be considered as the first public road.

Preliminary Recommendation 12.2: Increase Coordination for Projects that Cross Jurisdictional Boundaries

- Coordinate permit jurisdiction determinations when projects may involve development within the Commission's original jurisdiction.

- Develop a coordinated permit review procedure for development that straddles permit jurisdictions to avoid, where feasible, the need for separate coastal development permits from the County and the Commission.

Preliminary Recommendation 12.3: Resolve Areas of Deferred Certification

Update the LCP to eliminate Areas of Deferred Certification (e.g., Sweet Springs Marsh and the Otto property) and establish local permit jurisdiction over future development in such areas.

Preliminary Recommendation 12.4: Revise LCP Permit Exemptions

LCP permit exemptions (Section 23.03.040 of the CZLUO) should be revised so they conform to Coastal Act Section 30610 and associated sections of the California Code of Regulations.

Preliminary Recommendation 12.5: Update LCP Provisions Regarding Temporary Events

LCP provisions regarding temporary events, should be updated consistent with the Commission's guidelines, and as recently incorporated into the San Luis Bay Area Plan, so they apply countywide.

Preliminary Recommendation 12.6: Identify and Review Categorical Exclusions

Clarify where Categorical Exclusions may have been previously approved and how they are being implemented. The Commission staff, in coordination with the County, should evaluate whether these exclusions may be impacting coastal resources and therefore may warrant recision.

Preliminary Recommendation 12.7: Improve Noticing and Processing Procedures

The Commission staff should coordinate with the County to resolve noticing and processing issues related to CDPs, CDP amendments and extensions, grading permits, emergency permits, and appeals. In some cases, changes to the LCP may be needed to bring LCP noticing and processing requirements in conformance with the Coastal Act and the California Code of Regulations.

Preliminary Recommendation 12.8: Clarify Allowable and Principally Permitted Uses

- Revise Table O to identify that allowable uses are further limited by Combining Designations (e.g., resource dependent development is the only principally permitted use in ESHA).

- Update Table O to differentiate the principally permitted land use within each land use designation from conditionally permitted uses. All uses currently subject to special standards and criteria should be identified as a conditional use (i.e., all uses currently listed as "S-#-P").

- Table O should also list Land Divisions, Certificates of Compliance, and Lot Line Adjustments as conditionally permitted development within the particular land use designation that they may be allowed.

Preliminary Recommendation 12.9: Update Permit Application Requirements

Review permit application requirements and current methods for implementing these requirements to ensure that all information necessary to evaluate project consistency with LCP standards is being obtained at the application stage rather than as a condition of approval.

Preliminary Recommendation 12.10: Provide Legal Documents for Executive Director Review and Approval

Enhance coordination regarding the format and content of legal documents related to open space and public access easements and consider changes to permit procedures that would facilitate such coordination.

Preliminary Recommendation 12.11: Clarify Appealability of Projects Involving Conditional Uses

Section 23.01.043c4 should identify that if any component of a proposed development constitutes a conditional use, the entire project shall be appealable to the Coastal Commission.

Preliminary Recommendation 12.12: Improve Methods for Ensuring Compliance with Permit Conditions

Among other means available to achieve effective compliance with permit conditions, develop a tracking system that would be available to all relevant County departments and Commission staff.

Preliminary Recommendation 12.13: Increase Coordination of Enforcement Actions

Coordinate responses to violations with Commission staff and other involved regulatory agencies.

Preliminary Recommendation 12.14: Improve Coordination Regarding Emergency Actions

When time allows, consult with the Commission regarding alleged emergencies. This is critically important when a proposed emergency action may result in development on lands that are within the permit jurisdiction of the Coastal Commission.

Preliminary Recommendation 12.15: Further Restrict the Use of Variances

Incorporate additional limitations regarding the use of variances into the LCP (e.g., prohibit the use of variances where the project will adversely impact Environmentally Sensitive Habitats).

Preliminary Recommendation 12.16: Clarify LCP Provisions Regarding Nonconforming Uses

Clarify LCP provisions regarding nonconforming uses and structures, and consider incorporating new standards for the development/adjustment/certification of non-conforming parcels as addressed earlier in this report.

Preliminary Recommendation 12.17: Provide Additional Opportunities to Efficiently Resolve Appeals

- Incorporate new procedures into the LCP that would provide additional opportunities to resolve appeals at the local level.

- Improve procedures for providing Commission staff with all information relevant to appealed projects.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

PRELIMINARY REPORT

PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM

APPENDIX A: PERMIT CASES CITED IN REPORT

CALIFORNIA COASTAL COMMISSION
FEBRUARY 2, 2001

APPENDIX A: PERMIT CASES CITED IN REPORT

Chapter	Commission FLAN Number	SLO County File Number
Chapter 2		
	A-3-SLO-96-113	D940132D/D940283V
	A-3-SLO-98-087	D890423D/D960112V
	4-SLO-90-104	S890315T (Tract 1804)
	A-3-SLO-00-045	COAL 99-0090/S980282L
	3-SLO-96-059	CO 94-076
	3-SLO-93-028	D910089P & CO 91-015
	3-SLO-99-142	
	3-SLO-92-072	D910086P
	3-SLO-97-165	D95049P
	3-SLO-96-027	C95-017
	3-SLO-96-046	C95-002
	3-SLO-96-047	C95-017
	A-3-SLO-96-046	C95-017
	A-3-SLO-96-060	C95-002
	3-SLO-99-132	
	3-SLO-97-130	D910279P
	3-SLO-96-056	D940132D
	3-SLO-95-037	D940095D
	3-SLO-93-083	D870122D
Chapter 3	3-SLO-94-79	
	3-SLO-91-13	
	4-SLO-91-183	D890669P
	3-SLO-93-75	
	3-SLO-98-136	D970217P
	4-SLO-90-290	D900059P (D90
	3-SLO-92-96	
	3-SLO-92-105	D910211P
	3-SLO-93-20	
	3-SLO-93-24	
	3-SLO-93-28	
	3-SLO-94-84	
	3-SLO-94-129	D940023P
	3-SLO-94-139	D930143P
	3-SLO-94-140	D930026P
	3-SLO-95-122	D930172P
	3-SLO-95-142	D940299P
	3-SLO-96-15	

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	3-SLO-96-63	
	3-SLO-91-101	
	3-SLO-90-210	
	3-SLO-95-143	D950028P
	3-SLO-97-22	
	3-SLO-95-56	
Chapter 4		
	A-3-SLO-99-083	D980085P
	A-3-SLO-99-014	D970195D/COAL 94-130
	A-3-SLO-99-032	D970195D/COAL 94-130
	A-3-SLO-98-087	D890423D, D960112V & TR1873)
	A-3-SLO-00-040	D980010P/ D980279V)
		D870122D
		D890423
		D960037
		D980300P
		D990196P
		D970257D
	3-SLO-96-032	D950077P
	A-3-SLO-96-021	D930204D
	3-SLO-98-120	D970277P
	3-SLO-97-074/3-SLO-97-147	D940210P
	3-SLO-96-032	D950077P
		D950049P
	5-SLO-89-099	D870182D
	3-SLO-98-151	D980042P
		D980041P
		D980038P
	3-SLO-98-056	D970067P
	3-SLO-98-005	D970064P
	3-SLO-97-101	D960019P
	3-SLO-97-186	D950007P
	3-SLO-92-140	D910287P
	3-SLO-95-011	D930158D
	A-3-SLO-97-040	D950245D
	A-3-SLO-95-012	D930158D
	3-SLO-98-125	D970182D
		D870297P
	3-SLO-97-067	D950201P
		D930164P
	3-SLO-98-117	D960072P
	3-SLO-93-103	D910107P

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	3-SLO-92-025	D900370P
	3-SLO-94-142	D930241P
	3-SLO-93-054	D910210P
	3-SLO-92-024	D900254P
	3-SLO-95-154	D940208P
	3-SLO-95-048	D940148P
	3-SLO-95-109	D940280P
	3-SLO-95-129	D940220P
	4-SLO-90-171	D890440P
	5-SLO-89-137	D880273P
	3-SLO-97-037	D960014P
	4-SLO-90-189	D890409P
		D880195D
	A-3-SLO-98-061	D880388D/D880295D
	3-SLO-93-082	D910260P
	3-SLO-96-064	D940126P
	3-SLO-98-052	D970231P
	4-SLO-90-189	D890409P
	4-SLO-91-080	D890631D
	5-SLO-89-099	D870182D
	4-SLO-91-110	D900210P
	3-SLO-94-112	D940037P
	3-SLO-95-103	D940116P
		COAL 93-49
	4-SLO-90-190	D890386P
		COAL 94-130
	A-3-SLO-99-014/032	D970195D
	4-SLO-91-080	D890631D
	A-3-SLO-98-061	D880295D
	A-3-SLO-98-061	D960345V
	A-3-SLO-98-061	D960246V
	3-SLO-94-112	D940037P
		COAL 99-007
Chapter 5		
	4-SLO-89-315	Coal 89-40
	4-SLO-89-006	
	4-SLO-95-22	
	4-SLO-94-98	
	4-SLO-96-147	
	4-SLO-97-162	
	3-SLO-95-124	D 940059D
	3-SLO-96-58	Coal 95-058
	3-SLO-96-107	Coal 96-044
	3-SLO-97-8	Coal 91-069

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	3-SLO-97-015	Coal 96-030
	3-SLO-97-160	Coal 95-096
	3-SLO-97-176	Coal 97-109
	3-SLO-98-121	Coal 97-0141
	4-SLO-89-006	S870232L
	5-SLO-89-021	Coal 88-094
	4-SLO-89-315	Coal 89-040
	4-SLO-90-241	Coal 89-383
	4-SLO-91-131	C089399
	4-SLO-91-200	Coal 90-124
	3-SLO-93-65	Coal 90-137
	3-SLO-93-069	Coal 92-153
	3-SLO-93-84	CO 90-164
	3-SLO-93-124	Coal 89-397
	3-SLO-94-007	Coal 92-144
	A-3-SLO-99-014	Coal 94-130
	3-SLO-96-027	C9547
Chapter 6		
	4-SLO-90-022	D890053P
	3-SLO-92-124	D880056D
	3-SLO-94-131	D930013D
	3-SLO-93-102	D920116P
	3-SLO-95-133	D940190P
	3-SLO-95-073	D930083V, D93
	3-SLO-95-101	D940228P
	3-SLO-95-118	D940271P
	3-SLO-95-148	D930246P
	3-SLO-95-156	D940142P
	3-SLO-96-131	D950226P
	3-SLO-96-132	D95013P
	3-SLO-97-003	D960076P
	3-SLO-97-047	D940012P
	3-SLO-97-091	D940256P & D940257V
	3-SLO-97-103	D960195P
	3-SLO-97-129	D960215V
	3-SLO-98-123	D970268P
	3-SLO-90-221	
	3-SLO-94-143	D930239P
	3-SLO-94-133	D930277P
	3-SLO-95-086	D940190P
	3-SLO-95-067	D930246P;D930
	4-89-273nb	
	A-3-SLO-95-069	D940095D

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	3-SLO-95-110	D940252P
	3-SLO-95-156	D940142P
	3-SLO-96-132	D95013P
	5-SLO-89-099	D870182D
	3-SLO-97-008	COAL 91-069
	A-3-SLO-99-032	D970195D/COAL 94-130
	A-3-SLO-99-014	D970195D/COAL 94-130
	A-3-SLO-98-074	D930100P/D960285V
	A-3-SLO-98-027	
	3-SLO-99-018	D970319P
	A-3-SLO-99-019	D970319P
	3-SLO-93-052	D920144P
	4-SLO-90-211	D890610P
	4-SLO-91-185	D900119D
	3-SLO-92-120	D910267P
	3-SLO-90-211	
	A-3-SLO-95-70	D940106D)
Chapter 7		
	3-SLO-96-029	D940242P
	3-SLO-94-062	D920193P
	3-SLO-96-022	D950029P
	3-SLO-96-132	D95013P
	3-SLO-04-060	
	3-SLO-95-155	D940253P
	3-SLO-96-109	D910283P
	5-SLO-89-098	D880004P
	A-3-SLO-98-074	D930100P/D960285V
	4-SLO-91-094	D890084D/D890152n
	3-SLO-97-052	D940192P
	3-SLO-96-086	D950019P
	3-SLO-97-129	D960215V
	3-SLO-97-039	D950154P
	3-SLO-97-022	D930130D, D960085
	3-SLO-93-124	Coal 89-397
	3-SLO-93-033	D870106D & Tra
	4-SLO-91-080	D890631D
Chapter 8		
	5-SLO-89-099	D870182D
		D910242D
	3-SLO-97-162	D950218D
		D960295
	3-SLO-97-074/3-SLO-97-147	D940210P

Chapter	Commission FLAN Number	SLO County File Number
		D960038P
Chapter 9		
	3-SLO-92-121	D910244P
Chapter 10		
	A-3-SLO-98-072	D949227P
	A-3-SLO-98-091	D890558D

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

PRELIMINARY REPORT

PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM

APPENDIX C

WATERSHED SUMMARY

CALIFORNIA COASTAL COMMISSION
FEBRUARY 2, 2001

Appendix C: Watershed Summary

Central Coastal Watershed (part in Monterey County)

LCP Area Plan	Subwatershed	Subarea	Acres	Creeks	LCP Zoning/Land Characteristics	Main Threats
North Coast	Cambria (partly in Monterey County)	San Carpoforo (part in Monterey County)	29321	San Carpoforo	Predom. cattle grazing with some other agricultural uses. Some large lot rural and urban reserve lands. Some visitor serving and recreation at San Simeon. Major developed area is Cambria. Other commercial areas include San Simeon Acres, Harmony, Hearst Castle, Old San Simeon Village. Terrain is mix of land, rolling hills, steeper slopes in northern and eastern areas, narrow coastal valleys. Major streams support anadromous fish.	Iron, manganese in groundwater from natural sources in Santa Rosa basin. Possible overdraft on Santa Rosa River and Pico Basin. Increasing agricultural use could cause subsidence in Santa Rosa basin. Siltation of Carpoforo Creek suspected from agriculture and grazing. Carbonera Creek affected by sedimentation, bacteria, nutrients. Impairment to spawning and fish population decline. Sources include urban runoff, construction and land development, septage disposal.
		Arroyo de la Cruz	27775	Arroyo de la Cruz		
		San Simeon	51491	San Simeon		
		Santa Rosa	30400	Santa Rosa Creek		
North Coast; Estero	Cambria	Villa	16664	Villa Creek	Predom. agriculture; some large lot rural and urban reserve lands.	

Appendix C: Watershed Summary

LCP Area Plan	Subwatershed	Subarea	Acres	Creeks	LCP Zoning/Land Characteristics	Main Threats
Estero	Cambria, con't.	Cayucos	11543	Cayucos Creek; Little Cayucos Creek	Mix of agriculture, large lot rural and urban reserve lands, and recreation/open space. Whale Rock Reservoir located in Old subarea. Some public facility lands in Chorro subarea. Morro Bay is a predominant feature of the region. The hilly and mountainous areas support cattle grazing; valleys support croplands. Developed areas are concentrated in Cayucos and Los Osos/Bayview. Several State parks provide open space areas, predominately dunes and wetlands. The region includes narrow valleys and steep slopes in the northern portion, volcanic peaks, and broader valleys in the southern portion of the area.	Nitrates from agriculture and septic, sodium, chloride, iron, manganese, organic solvents, and TDS in groundwater. Seawater intrusion/overdrafts in Chorro, Morro, Cayucos, and Los Osos Creek basins. In Chorro Valley and Los Osos Valley, threat of drinking water impairment due to bacteria, nitrates, nutrients, seawater intrusion. Possible sources include agriculture, flow alterations, groundwater withdrawals, municipal point source discharges, septage disposal, nonpoint source runoff. Throughout region, concern of erosion into streams, nonpoint source pollution from oil operations, agriculture, urban development, mines, and natural sedimentation. South of Los Osos Valley Road surface runoff and erosion from steep slopes is particular concern, affecting drainage problems in the South Bay.
		Old	15428	Old Creek		
		Torro	9841	Torro Creek		

Appendix C: Watershed Summary

LCP Area Plan	Subwatershed	Subarea	Acres	Creeks	LCP Zoning/Land Characteristics	Main Threats
Estero	Point Buchon	Morro	18242	Morro Creek; Little Morro Creek	See above.	Continued from above. Morro Bay: Impaired under EPA's 303(d) list. General sources of pollution: urban development, boatyard runoff, agriculture, irrigation, wastewater treatment plan, houseboats. TDS, chlorides, sodium in groundwater; seawater intrusion. Nutrient contamination from creeks, surface and groundwater discharges, and septic. Bacterial contamination from septic, waste-water treatment plants, and urban development. Chromium and nickel contamination. *San Bernardo Creek* contaminated with coliform from cattle. *Cayucos Creek* affected by sedimentation. *Chorro Creek* polluted with heavy metals, likely from upland mines, and bacterial contamination (also running into Morro Bay). *Morro Creek* suspected degradation from chromium, metals, siltation, and trace elements. Suspected sources are agriculture, grazing, and resource extraction. *Los Osos Creek* is identified as impaired under EPA's 303(d) list. Affected by bacterial contamination, loss of endangered species, flow alterations, nutrients, siltation and sedimentation, pathogens, organics, turbidity, and suspended solids. Sources include agriculture, storm runoff, irrigated crop production, groundwater withdrawals, hydromodification, land disposal, non-point source runoff, septage disposal, grazing. Sedimentation in Pismo Marsh, particularly due to erosion in Arroyo Grande fringe area.
		Chorro	33693	Chorro Creek; San Bernardo Creek		
		Los Osos	14776	Los Osos Creek		
		Point San Luis	29572	Coon Creek		
		San Luis Obispo Creek	53135	San Luis Obispo Creek		
		Pismo	25803	Pismo Creek		

Appendix C: Watershed Summary

LCP Area Plan	Subwatershed	Subarea	Acres	Creeks	LCP Zoning/Land Characteristics	Main Threats
Estero; San Luis Bay	Point Buchon, con't.	Point San Luis	29572	Coon Creek	Mix of agriculture, recreation, large lot rural, urban reserve lands, and public facility. Predominately agriculture in northern portion of area. Mix of agriculture, urban reserve and village reserve lands, large lot rural, small lot rural. Some public facility lands in Pismo subarea. Communities of Avile Beach, Pismo Beach, and Oceano comprise development nodes. Terrain includes some steep slopes around the towns of Avila and Pismo.	Nitrate, iron, manganese identified in groundwater in San Luis Bay region. Impacts to San Luis Bay from petroleum leaks and boot moorings. *San Luis Creek* identified as impaired under EPA's 303(d) designation. Affected by sedimentation, impacts to habitat and rare/endangered species, low flows and water diversion, threat of spawning impairment and fish population decline, metals, nutrients, pathogens, and coliform. Ground water overdraft; nitrate, iron and magnesium in ground water. Sources include municipal point sources, agriculture, and nonpoint source pollution from land development and urban runoff. Metals may be due to natural sources
San Luis Bay		San Luis Obispo Creek	53135	San Luis Obispo Creek		
		Pismo	25803	Pismo Creek		
San Luis Bay; South Bay	Arroyo Grande	Oceano	97187	Arroyo Grande Creek	Mix of ag, open space/ recreation, large-lot rural, small lot rural, and urban reserve/village reserve lands. Includes Lopez Reservoir.	TDS, nitrate, sodium, chloride in groundwater from irrigation returns and septic. Pesticides in Arroyo Grande Creek from pesticide spills. Seawater intrusion/overdrafts in Arroyo Grande and Nipomo Mesa basins.

Appendix C: Watershed Summary

LCP Area Plan	Subwatershed	Subarea	Acres	Creeks	LCP Zoning/Land Characteristics	Main Threats
South County	Arroyo Grande, con't.	Nipomo Mesa	13737		Mix of agriculture, open space/ recreation, small lot rural, urban reserve and village reserve lands. Some large lot rural lands. Concentration of residential uses outside the coastal zone boundary, including Palo Mesa, Callendar-Garret, and Nipomo.	Nitrates in groundwater from irrigation return and septic. Irrigation, runoff of fertilizer and pesticides, siltation due to intensive agricultural practices. Oil processing impacts on water quality.

Santa Maria Watershed (extends into Santa Barbara County)

South County; extends into Santa Barbara County	Guadalupe		152244	Santa Maria River	Within the coastal zone, the land is predominately open space/recreation and agricultural uses. Much of the land is dune habitat. An industrial plant is located in the Guadalupe Dunes, on the southern edge of the County's coastal zone.	TDS, chloride, sulfate, nitrate in groundwater from irrigation return and sewage plant discharge. Siltation suspected in Santa Maria River, possibly from agriculture. Sedimentation, heavy metals, herbicide fertilizer, pesticides, and nutrients to Oso Flaco Lake, from agriculture and potentially from recreational uses. Pesticides in Santa Maria Estuary. Oil processing concerns.

Sources: *San Luis Obispo County Master Water Plan Update*. Department of Water Resources. March 1986.
Information Center for the Environment; University of California, Davis. (www.ice.ucdavis.edu; California Rivers Assessment Project).
Draft Environmental Impact Report for the Estero Area Plan Update. Crawford, Multari, Clark, and Mohr. December 1999.
Turning the Tide for Morro Bay; Draft Comprehensive Conservation and Management Plan. Morro Bay National Estuary Program, Bay Foundation of Morro Bay, and the Central Coast Regional Water Quality Control Board. August 1999.
Environmental Protection Agency; Surf Your Watershed (/www.epa.gov/surf3).
San Luis Obispo County LCP.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

PRELIMINARY REPORT

PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM

APPENDIX D

NPS MANAGEMENT MEASURES

PRELIMINARY ASSESSMENT

CALIFORNIA COASTAL COMMISSION
FEBRUARY 2, 2001

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

The following tables identify the various management measures reflected in California's Plan for addressing nonpoint source pollution. The tables include a preliminary assessment of the LCP policies and ordinances that, in conjunction with other County ordinances implement each of the management measures. They also provide an initial identification of modifications, which, if incorporated in the County's LCP, are designed to better implement the various management measures and better protect water quality.

Table D-1: Management Measures to address Nonpoint Source Pollution from Agricultural Practices

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Recommended Modification
1. Minimize delivery of sediment from agricultural lands to surface waters.	WS Policy 12: Minimize erosion and sedimentation from agricultural practices through accepted management measures.		
2. Use management and physical practices to settle solids and pollutants in runoff for storms of up to, and including, 10-year, 24 hr. frequency.	Ag Policy 8: Proper soil conservation techniques and grazing methods should be encouraged per 208 standards. Watershed Policy 14: Proper soil conservation techniques and grazing methods shall be employed in accordance with the 208 water quality standards adopted by the California Water Quality Control Board.		1. Modify Ag Policy 8 to replace reference to 208 standards with citation to Basin Plan receiving water objectives. 2. Modify Watershed Policy 14 to replace reference to 208 standards with citation to Basin Plan receiving water objectives.
3. Protect range, pasture, and other grazing lands including sensitive areas (such as streambanks, wetlands, estuaries, ponds, riparian zones).	Ag Policy 8: Proper soil conservation techniques and grazing methods should be encouraged per 208 standards. Watershed Policy 14: Proper soil conservation techniques and grazing methods shall be employed in accordance with the 208 water quality standards adopted by the California Water Quality Control Board.	Ordinance 23.08.046(4): cattle operations in ag, rural lands, and open space on parcels larger than 20 acres are not regulated, except for feedlots (see 23.08.052c).	1. Modify Ag Policy 8 and Watershed Policy 14 as noted above. 2. Modify ordinance 23.08.046 to also require that wastewater and contaminated runoff from confined animal facilities be contained at all times; storage facilities are of adequate capacity to allow for proper water use and are constructed so they prevent seepage to groundwater and store runoff and accumulated solids.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Recommended Modification
3. (con't.) Protect range, pasture, and other grazing lands including sensitive areas (such as streambanks, wetlands, estuaries, ponds, riparian zones).			3. Modify exemption in LCP to areas not immediately adjacent to coastal streams and wetlands. 4. Add program to LCP to work with landowners to develop grazing management measures to protect sensitive areas (including streambanks, wetlands, estuaries, and riparian areas). Measures should include: • avoiding grazing adjacent to ESHA or within 50 ft. of riparian corridor; • reduce direct loadings of animal wastes and sediment; • reduce upland erosion by a) maintaining the land consistent with the California Rangeland Water Quality Management Plan or Bureau of Land Management and Forest Service activity plans or (b) applying the range and pasture components of a Conservation Management System. This may include restricting livestock from sensitive areas by providing livestock stream crossings and by locating salt, shade, and alternative drinking sources away from sensitive areas.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Recommended Modification
4. Limit discharge from confined animal facilities to surface waters by a) storing wastewater and runoff (up to and including 25 yr., 24 hr. storm), and b) managing runoff and accumulated solids from facility through appropriate waste utilization system.	WS Policy 12: Minimize erosion and sedimentation from agricultural practices through accepted management measures.	Ordinance 23.08.046: Where permit is required for animal keeping, application must include statement of measures proposed to avoid soil erosion and sedimentation caused by keeping of animals and plans for animal waste disposal. Operations shall not produce sedimentation on any public road, adjoining property, or in any drainage channel. Waste disposal for feedlots are required to have RWQCB review (23.06.102/23.08.052).	1. Modify Ordinance 23.08.046 as noted above. 2. Include policies and programs to assure that any development that increases the capacity of agriculture practices (roads , barns, fences) include management measures that will eliminate water quality impacts from that increase in use.
5. Develop, implement, and update nutrient management plan.			1. Address the development and implementation of comprehensive nutrient management plans for areas where nutrient runoff is a problem affecting coastal waters. Such plans would include a crop nutrient budget; identification of the types, amounts and timing of nutrients necessary to produce a crop based on realistic crop yield expectations; identification of hazards to the site and adjacent environment; soil sampling and tests to determine crop nutrient needs; and proper calibration of nutrient equipment. 2. County should work with RCD/NRCS/CAL Poly to develop Nutrient Management Plan specific for each watershed.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Recommended Modification
6. Reduce contamination of surface and ground waters from pesticides.			1. Reduce contamination of surface water and ground water from pesticides, including reductions in pesticide use; evaluation of pest, crop and field factors; use of Integrated Pest Management (IPM); consideration of environmental impacts in choice of pesticides; calibration of equipment; and use of anti-backflow devices. IPM is a key component of pest control. 2. County should work with RCD/NRCS/CAL Poly to develop Pesticide Management Plan specific for each watershed.
7. Reduce nonpoint source pollution of surface waters caused by irrigation by a) match timing and amount of irrigation water to crop needs and b) include backflow preventers for wells, minimize discharge of chemigated waters, and control deep percolation.			1. Changes in irrigation techniques should be designed to conserve water and retain water on site. 2. County permits for new wells could include conservation requirements that retain irrigation on site.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Table D-2a: Management Measures to address Nonpoint Source Pollution from the Siting and Location of Development

Management Measure	Existing LCP Policies	Existing Ordinances	Proposed Modifications
1. Avoid conversion of areas susceptible to erosion and sediment loss.	Watershed Policy 7: Restricts grading on steep slopes, consistent with Ordinance 23.05.34. **North Coast**: Where feasible, restrict new development to less than 20% slopes in Monterey Pine Forest. No structures allowed on slopes over 20% in rural lands adjacent to Cambria (allowed in URL). No development over 20% on "The Ranch" if protective devices are necessary. Within Cambria, no development on slopes over 20% except for "crossing bridges", access roads, and bike paths where there is no feasible alternative. **Estero**: Building sites and driveways to be located on slopes less than 30%. No development on slopes over 30% in Morro Palisades. Has program to pursue land aggregation for small lots in subdivision on steep slopes in Cayucos. **San Luis Bay**: Program to prepare erosion/sedimentation plan of Arroyo Grande fringe area and monitor effect of land development/siltation within Pismo Creek drainage.	Ordinance 23.05.34 limits grading for creating a site for a structure or other development to slopes under 20%, unless 1) a residence cannot be sited on existing lot on slopes under 20%; 2) grading an access road or driveway is necessary to provide access to a building site with than 20% slope and there is no less environmentally damaging alternative; 3) grading on slopes between 20-30% can occur with specific findings and submittal of erosion and grading plans, and where there is no other feasible method of establishing an allowable use without grading on 20-30% slopes.	1. Prohibit subdivision on slopes over 30%.
2. Preserve areas that provide important water quality benefits and/or are necessary to maintain riparian/ aquatic biota.	Coastal Watershed Policy 7: no grading or development within 100 ft. of ESHA. If the 100 ft. renders a parcel within the urban services line physically unusable for a principally permitted use, the setback may be reduced.		1. In no case shall grading occur closer than 50 feet from ESHA.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policies	Existing Ordinances	Proposed Modifications
3. development to protect natural integrity of waterbodies and natural drainage systems.	See above policies on buffers. **North Coast**: Design projects to improve existing drainage patterns. Development at Hearst Ranch shall include analysis of impacts on coastal resources generated by water withdrawals from Arroyo de la Cruz or San Carpoforo watersheds.	Ordinance 23.05.034 prohibits grading, dredging, or diking from altering any intermittent or perennial stream or natural body of water shown on any USGS 7 ½ minute map, except as permitted through approval of a county drainage plan and streambed alteration permit from Dept. of Fish and Game. Fills placed within watercourses shall have suitable protection again erosion during flooding. Excavated materials shall not be deposited or stored in or alongside a watercourse where materials can be washed away by high water or storm runoff. Grading equipment shall not disturb channels containing live streams without siltation control measures. Ordinance 23.05.036 requires sedimentation and erosion control plan if land disturbance activities are within 100 ft. of any water course shown on the most current 7 ½ minute USGS quad map.	1. Modify Ordinance 23.05.034 to include as criteria waterbodies which a) supports fish, b) has significant flow 30 days after last significant storm, or c) has a channel, free of soil and debris. 2. Site Design, and Develop Sites to: a. Protect areas that provide important water quality benefits, necessary to main riparian and aquatic biota, and/or are particularly susceptible to erosion and sediment loss: b. limit increased of impervious areas c. limit land disturbance activities such as clearing and grading and cut and fill to reduce erosion and sediment loss; and d. limit disturbance of natural drainage features and vegetation
4. Limit increase of impervious areas.	**North Coast**: In Lodge Hill area, impervious surfaces such as driveways and walkways shall be limited to smallest functional size. **Estero**: Combine driveways where possible to reduce impervious surfaces. Design new development to minimize amount of impervious surface. **SLB, S. County**: combine driveways where possible to reduce impervious surfaces.	For new land divisions, if applicant chooses to cluster development, minimize site disturbance by clustering building sites locations, placing roads along contours (Ord. 23.04.036 (e)(3)).	1. Expand requirement to limit impervious areas throughout the county, with emphasis on areas with flooding or drainage problems or where Watershed Management Plans have identified impervious surface limits a priority.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policies	Existing Ordinances	Proposed Modifications
5. Limit land disturbance activities (clearing, grading, cut, and fill).	WS Policy #8: Minimize area and time of soil exposure.		
6. Limit disturbance of natural drainage features and vegetation.	ESHA policy #18: Coastal streams and riparian vegetation are ESHAs and the natural hydrological system and ecological function of coastal streams shall be protected and preserved. ESHA Policy 21 protects beneficial use of coastal stream waters and ensure quantity and quality of surface water discharge from stream and rivers shall be maintained at levels necessary to sustain functional capacity of streams. ESHA policy #23 limits streambed alterations (see Ordinance 23.07.174).	Ordinance 23.07.174 limits channelization or other alteration of stream channels to necessary water supply projects, flood control projects, improvements to fish and wildlife habitat, and maintenance of existing flood control channels. Restricts cutting or alteration of natural vegetation that protects a riparian habitat.	
7. Reduce post-development loadings of total suspended solids to that of predevelopment loadings.			1. Incorporate Best Management Practices into project design to address post-construction runoff. 2. Develop watershed plans for each water basin. 3. Implement a drainage and pollution control plan program that requires development to integrate BMPs into the site design or prepare a drainage/pollution control plan that will mitigate potential nonpoint source impacts. (See Table D-4 for proposed language.)

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Table D-2b: Management Measures to address Nonpoint Source Pollution from Construction Activities

Management Measure	Existing LCP Policies	Existing Ordinances	Proposed Modifications
1. Reduce erosion and retain sediment onsite to extent practicable during and after construction.	WS Policies 7-10, 13: limits grading on steep slopes; erosion control measures in place before start of rainy season; minimize area of soil exposure; land clearing/grading avoided during rainy season if potential for serious erosion and sedimentation; use appropriate measures to minimize erosion and sedimentation; site design shall ensure drainage does not increase erosion; erosion/sedimentation plan required for vegetation clearance on slopes over 30% in geologically unstable areas or on soils rated as severe erosion hazard. **North Coast**: In Lodge Hill area, protect stockpiles and disturbed soils from rain and erosion by plastic sheets or other coverage. Have temporary or permanent erosion control devices in place when revegetating areas disturbed by grading.	Ordinance 23.05.036: Requires sedimentation/ erosion control plan for projects where a) grading between Oct 15-April 15; b) activities on slopes over 30%, on soils rated as severe erosion hazard, within 100 ft. of water course on USGS quad; c) where placement/ disposal of material may be carried into watercourse by rainfall or runoff in quantities deleterious to fish, wildlife, or other beneficial uses.	1. Define wet season as October 1 to April 15.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policies	Existing Ordinances	Proposed Modifications
2. Prior to land disturbance, implement erosion/sediment control plan.	See above. **North Coast**: For Lodge Hill area, install permanent erosion control devices prior to or concurrent with grading for SFRs. Submit sediment/erosion control plans if grade between Oct. 15-April 15.	See above.	
3. Limit application, generation, and migration of toxic substances			
4. Ensure proper storage and disposal of toxic materials.			
5. Apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters.			

Table D-2c: Management Measures to address Nonpoint Source Pollution from Existing Developed Areas

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modification
1. Develop and implement watershed management programs to reduce runoff pollutant concentrations and volumes from existing development.			1. Develop Watershed Management Plans for drainages with water quality problems or that have the threat of increased development or changes in land use.
2. Limit destruction of natural conveyance systems.			
3. Preserve, enhance, or establish buffers along surface waterbodies and their tributaries.			

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Table D-2d: Management Measures to address Nonpoint Source Pollution from Bridges and Roads

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modification
1. Protect areas that provide important water quality benefits or are particularly susceptible to erosion or sediment loss.			
2. Limit land disturbance such as clearing, grading, cut, and fill to reduce erosion and sediment loss.	**North Coast, Estero, SLB**: Design roads in new subdivisions to minimize terrain disturbance. Revegetate or otherwise protect sloped areas.		
3. Limit disturbance of natural drainage features and vegetation.			
4. Site, design, and maintain bridge structures to protect sensitive and valuable aquatic ecosystems and areas providing important water quality benefits.			
5. Reduce erosion and retain sediment, to extent practicable, onsite during and after construction.			
6. Prior to land disturbance, prepare and implement approved erosion control plan.			
7. Limit application, generation, and migration of toxic substances.			
8. Ensure proper disposal and storage of toxic materials.			
9. Apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters.			

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modification
10. Incorporate pollution prevention procedures into operation and maintenance.			1. Implement Municipal Good Housekeeping program as outlined in the Model Urban Runoff Program.. 2. Ensure that new municipal operations areas are designed with appropriate BMPs.
11. Develop and implement runoff management systems for existing roads, highways, and bridges to reduce pollutant concentrations and volumes entering surface waters.			1. Implement Municipal Good Housekeeping program as outlined in the Model Urban Runoff Program 2. Implement Street Sweeping Program.

Table D-2e: Management Measures to address Nonpoint Source Pollution from Onsite Disposal Systems (Septic systems for SFRs)

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modifications
1. Ensure new OSDSs are located, designed, installed, operated, inspected, and maintained to prevent discharge of pollutants to surface of the ground and to groundwater.			1. Locate, design, install, operate, inspect, and maintain new or replacement OSDSs to prevent the discharge of nutrients and pathogens to ground and/or surface waters. 2. OSDSs shall meet all requirements of the County Environmental Health Department, State Water Resources Control Board, and/or Regional Water Quality Control Board. Property owners and/or septic operator(s) shall submit inspection and maintenance reports every three years, or according to County Environmental Health Department requirements. The property owner(s) and/or septic operator(s) shall be responsible for proposing and undertaking all measures necessary to ensure the continuing proper operation and adequate capacity of the septic tank and leach line systems. Submit first report three years from the date of issuance of the building permit.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modifications
2. Direct placement of OSDSs away from unsuitable areas and establish protective setbacks from surface waters, wetlands, and floodplains.			1. OSDSs shall be sited away from areas a) with poorly or excessively drained soils; b) within floodplains; or c) where nutrient and/or pathogen concentrations in the effluent cannot be sufficiently treated or reduced before the effluent reaches sensitive water bodies. 2. Establish the following minimum setbacks for soil absorption fields. Increased setbacks based on soil type, slope, presence and character of the water table, and the type of OSDS. Water supply wells – 100 feet. Surface waters, springs – 100 feet. Storm drainage pipes – 25 feet. Escarpments – 25 to 50 feet. Property line – 5 to 10 feet. Building foundations – 10 to 20 feet (30 feet when located up-slope from a building in slowly permeable soils).
3. Where nitrogen limited surface waters may be adversely affected by excess nitrogen loadings from ground water, require installation of OSDS that reduces total nitrogen loadings.			1. OSDSs shall not adversely impact surface waters or cause the groundwater nitrate concentration to exceed 10.0 mg/l N (or any such drinking water quality objectives established by the California Department of Health Services or Regional Water Quality Control Board) at any source of drinking water on the property nor on any off-site potential drinking water source. 2. Where groundwater nitrate concentration may exceed the applicable water quality objective or where surface waters may be adversely affected from the OSDS, install denitrification system(s) such as sand filters to reduce total nitrogen loadings by 50%.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modifications
4. Establish protective separation distances between OSDS system components and groundwater.			1. Do not site OSDSs in areas with shallow water tables or high seasonal water tables. 2. A minimum separation of between 2 to 5 feet shall be established between the soil absorption field and the seasonal high water table or limiting layer.

Table D-2f: Management Measures to address Pollution Prevention for Nonpoint Source Pollution

Management Measure	Existing LCP Policy	Existing LCP Ordinance	Proposed Modification
1. Implement pollution prevention and education programs to reduce nonpoint source pollutants generated from the following activities: household hazardous chemicals; lawn and garden activities; turf management on gold courses and recreational areas; discharge of pollutants into stormdrains; commercial activities including parking lots and gas stations not under NPDES review.			1. Storm drain stenciling. 2. Implement a comprehensive set of education programs through completion of a Model Urban Runoff Program public education plan.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Table D-3: Management Measures to address Nonpoint Source Pollution from Marinas and Boating Areas

Management Measure	Proposed Modification
1. Assess water quality as part of marina siting and design.	1. Water quality shall be assessed as part of the siting and design of any proposed new or expanded recreational boating and maintenance facilities. 2. Use water quality sampling and/or monitoring to measure water quality conditions. 3. Use a water quality modeling methodology to predict post-construction water quality conditions. 4. Monitor water quality using indicator species. 5. Use rapid bioassessment techniques to monitor water quality. 6. Establish a volunteer monitoring program.
2. Site and design marinas to ensure flushing or recycling of water through the site.	1. Proposed new or expanded recreational boating and maintenance facilities shall be sited and designed to ensure proper flushing or recycling of water through the site. 2. Ensure that the bottom of the marina and entrance channels are not deeper than adjacent navigable channels 3. Areas with minimal or no tidal flushing or poor circulation should have basin and channel depths designed to gradually increase toward open water.
3. Site and design marinas to protect against adverse impacts on aquatic resources, including shellfish, wetlands, submerged aquatic vegetation, riparian vegetation, or other important aquatic habitat areas as designated by local, state, or federal governments.	1. Site and design proposed new or expanded recreational boating and maintenance facilities to protect against adverse impacts on aquatic resources, including shellfish, wetlands, submerged aquatic vegetation, riparian vegetation, or other important aquatic habitat areas as designated by local, state, or federal governments. 2. Conduct habitat surveys and characterize the marina site. 3. Assess habitat function to minimize indirect effects. 4. Use rapid bioassessment techniques to assess effects on biological resources. 5. Redevelop waterfront sites that have been previously disturbed and expand existing marinas. 6. Consider alternative sites where adverse environmental effects will be minimized or positive effects will be maximized. 7. Create new habitat or expand habitat in the marina basin 8. Minimize disturbance of riparian areas. 9. Use dry stack storage where feasible.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Proposed Modification
4. Where shoreline or streambank stabilization is required to protect existing structures from damage by erosion, vegetative methods of stabilization should be considered first over structural methods.	1. Provide an alternatives analysis that includes evaluation of vegetative methods of shoreline or streambank stabilization. The proposed project should be the least environmentally damaging alternative.
5. Implement effective runoff control strategies, including pollution prevention activities and proper design of hull maintenance areas. Reduce the average annual loadings of total suspended solids (TSS) in runoff from hull maintenance areas by 80 percent.	1. New or expanded recreational boating and maintenance facilities shall implement effective runoff control strategies, including pollution prevention activities and proper design of hull maintenance areas. Such facilities shall also reduce the average annual loadings of total suspended solids (TSS) in runoff from hull maintenance areas by 80 percent. 2. Perform as much boat repair and maintenance work as possible inside work buildings. 3. Where and inside work space is not available, perform abrasive blasting and sanding within spray booths or tarp enclosures. 4. Where buildings or enclosed areas are not available, provide clearly designated land areas for boat repair and maintenance. 5. Design hull maintenance areas to minimize contaminated runoff. 6. Use vacuum sanders both to remove paint from hulls and to collect paint dust. 7. Restrict the types of and/or amount of do-it-yourself work done at the marina. 8. Clean hull maintenance areas immediately after any maintenance to remove debris, and dispose of collected material properly Capture and filter pollutants out of runoff water with permeable tarps, screens, and filter cloths. 9. Frequently sweep and/or vacuum around hull maintenance areas, roads, and driveways. 10. Sweep parking lots regularly. 11. Plant grass between impervious areas and the marina basin. 12. Construct new or restore former wetlands where feasible and practical. 13. Use porous pavement where feasible. 14. Install oil/grit separators to capture petroleum spills and coarse settlement 15. Use catch basins where storm water flows to the marina basin in large pulses 16. Add filters to storm drains that are located near work areas.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Proposed Modification
5. (con't) Implement effective runoff control strategies, including pollution prevention activities and proper design of hull maintenance areas. Reduce the average annual loadings of total suspended solids (TSS) in runoff from hull maintenance areas by 80 percent.	17. Place absorbents in the drain inlets. 18. Use chemical and filtration treatment systems only where necessary. 19. Encourage the use of non-toxic hull paints..
6. Design fuel stations so spills can be contained and easily cleaned, and ensure fueling stations have spill containment equipment and spill contingency plans.	1. Use automatic shutoffs on fuel lines and at hose nozzles to reduce fuel loss. 2. Remove old style fuel nozzle triggers that are used to hold the nozzle open without being held. 3. Install personal watercraft floats at fuel docks to help drivers refuel without spilling. 4. Regularly inspect, maintain, and replace fuel hoses, pipes, and tanks. 5. Train fuel dock staff in spill prevention, containment, and cleanup procedures. 6. Install easy-to-read signs on the fuel dock that explain proper fueling, spill prevention, and spill reporting procedures. Locate and design boat fueling stations so that spills can be contained, such as with a floating boom, and cleaned up easily. 7. Write and implement a fuel spill recovery plan. 8. Have spill containment equipment storage, such as a locker attached to the fuel dock, easily accessible and clearly marked.
7. Install pumpout, dump station, and restroom facilities where needed at new and expanding marinas to reduce release of sewage to surface waters. Design these facilities to allow ease of access and post signage to promote use by the boating public.	1. New or expanded recreational boating and maintenance facilities shall install pumpout, dump station, and restroom facilities where needed at new and expanding marinas to reduce release of sewage to surface waters. These facilities shall be designed to allow ease of access and post signage to promote use by the boating public. 2. Install pumpout facilities where needed. Use a system compatible with the marina's needs. Examples of the various types of stations include: fixed point systems, dump stations for portable toilets, portable systems, and dedicated slipside systems. 3. Provide pumpout service at convenient times and at a reasonable cost. 4. Keep pumpout stations clean and easily accessible and consider having marina staff do pumpouts. 5. Provide portable toilet dump stations near small slips and launch ramps. 6. Provide restrooms at all marinas and boat ramps. 7. Consider declaring marina waters to be a "no discharge" area.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Proposed Modification
7. (con't) Install pumpout, dump station, and restroom facilities where needed at new and expanding marinas to reduce release of sewage to surface waters. Design these facilities to allow ease of access and post signage to promote use by the boating public.	8. Establish practices and post signs to control pet waste problems. 9. Avoid feeding of wild birds in the marina 10. Establish no discharge zones to prevent sewage from entering waters. 11. Establish equipment requirement policies that prohibit the use of Y-valves on boats on inland waters
8. Properly dispose of solid wastes produced by operation, cleaning, maintenance, and repair of boats to prevent entry of solid wastes to surface waters	1. Encourage marina patrons to avoid doing any debris-producing hull maintenance while their boats are in the water. When maintenance is done with the boat in the water, prevent debris from falling in the water. 2. Place trash receptacles in convenient locations for marina patrons. Covered dumpsters and trashcans are ideal. 3. Provide trash receptacles a boat launch sites. 4. Provide facilities for collecting recyclable materials. 5. Provide boaters with trash bags. 6. Use reusable-blasting medium to reduce volume of debris sent to landfills. 7. Require patrons to cleanup pet wastes and provide a specific dog walking areas at the marina.
9. Promote sound fish waste management through fish-cleaning restrictions, public education, and proper disposal of fish waste.	1. Sound fish waste management through fish-cleaning restrictions, public education, and proper disposal of fish waste shall be encouraged at recreational boating facilities. 2. Clean fish offshore where the fish are caught and discard of fish waste at sea if allowed by the state. 3. Install fish cleaning stations at the marina and at boat launch sites. 4. Encourage fishers to compost fish waste where appropriate. 5. Encourage fishers to freeze fish parts and reuse them as bait or chum. 6. Encourage catch and release fishing, which does not kill the fish and produces no fish waste.
10. Provide and maintain appropriate storage, transfer, containment, and disposal facilities for liquid material (e.g. new and used oil, solvents, antifreeze and paints) , and encourage recycling of such materials.	1. New and expanded recreational boating facilities shall Provide and maintain appropriate storage, transfer, containment, and disposal facilities for liquid material and encourage recycling of such materials 2. Build curbs, berms, or other barriers around areas used for liquid material storage to contain spills. 3. Store liquid materials under cover on a surface that is impervious to the type of material stored. 4. Store minimal quantities of hazardous materials.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Proposed Modification
10. (con't) Provide and maintain appropriate storage, transfer, containment, and disposal facilities for liquid material (e.g. new and used oil, solvents, antifreeze and paints) , and encourage recycling of such materials.	5. Storage and disposal areas for liquid materials should be located in or near repair and maintenance areas, undercover, protected from runoff with berms or secondary containment, and away from flood areas and fire hazards. 6. Provide clearly labeled, separate containers for the disposal of waste oils, fuels, and other liquid wastes. 7. Recycle liquid materials where possible. 8. Use antifreeze and coolants that are less toxic to the environment. 9. Change engine oil using non-spill vacuum-type systems for spill proof oil changes, or to suction oily water from bilges. 10. Use alternative liquid materials where practical. 11. Use nontoxic or low-toxicity pesticides. 12. Burn used oil as a heating fuel. 13. Prepare a hazardous materials spill recovery plan and update it as needed.
11. Reduce amount of fuel and oil from boat bilges and fuel tank air vents entering marina and surface waters	1. New and expanded recreational boating and maintenance facilities shall encourage the reduction of the amount of fuel and oil from boat bilges and fuel tank air vents entering surface waters. 2. Promote the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling. 3. Avoid overfilling fuel tanks. 4. Provide doughnuts or small petroleum absorption pads to patrons to use while fueling to catch splashback and the last drops when the nozzle is transferred back from the boat to the fuel dock. 5. Keep engines properly maintained for efficient fuel consumption, clean exhaust, and fuel economy. Follow the manufacturer's specifications. 6. Routinely check for engine fuel leaks and use a drip pan under engines. 7. Avoid pumping any bilge water that is oily or has a sheen. Promote the use of materials that either capture or digest oil in bilges. Examine these materials frequently and replace as necessary. 8. Extract used oil from absorption pads if possible, or dispose of it in accordance with petroleum disposal guidelines. 9. Prohibit the use of detergents and emulsifiers on fuel spills.

APPENDIX D: NPS MANAGEMENT MEASURES—PRELIMINARY ASSESSMENT

Management Measure	Proposed Modification
12. Perform in-water hull cleaning operations to minimize the release of cleaners, solvents, and paint to surface waters.	1. New and expanded recreational boating and maintenance facilities shall minimize the release of cleaners, solvents, and paint to surface waters during in-water hull cleaning operations. 2. Wash boat hulls above the waterline by hand. Where feasible, remove boats from the water and clean them where debris can be captured and properly disposed of. 3. Buy and use detergents and cleaning compounds that will have minimal impact on the aquatic environment. 4. Avoid in-the-water hull scraping or any abrasive process that is done underwater that could remove paint from the boat hull. 5. Switch to long lasting and low-toxicity or non-toxic antifouling paints. 6. Minimize the impacts of wastewater from pressure washing
13. Ensure that sewage pumpout facilities are maintained in operational condition and encourage the use of sewage pumpout facilities.	1. New or expanded recreational boating and maintenance facilities shall ensure that sewage pumpout facilities are maintained in operational condition and encourage the use of sewage pumpout facilities. 2. For government-operated marinas, boat launches, pumpout stations, and dump stations, maintain a dedicated fund and issue a contract for pumpout and dump station repair and maintenance. 3. Regularly inspect and maintain sewage facilities. 4. Disinfect the suction connection of a pumpout station by dipping or spraying it with disinfectant. 5. Maintain convenient, clean, dry and pleasant restroom facilities in marina.
14. Where necessary, restrict boating activities to decrease turbidity and physical destruction of shallow water habitat	1. Where necessary to decrease turbidity and the physical destruction of shallow water habitat, boating activities shall be restricted. 2. Restrict boater traffic in shallow-water areas. 3. Establish and enforce no wake zones to decrease turbidity, shore erosion, and damage in marinas
15. Public education, outreach, and training programs should be instituted for boaters, as well as marina owners and operators, to prevent improper disposal of polluting material.	1. To help prevent improper disposal of polluting materials, all recreational boating and maintenance facilities shall institute public education, outreach, and training programs for facility owners, operators, staff and patrons 2. Use signs to inform marina patrons of appropriate clean boating practices. 3. Provide training programs and materials for staff and boaters about clean boating practices

Table D-4: Proposed Drainage and Pollution Control Program

A drainage/pollution control plan shall be completed for all development with water quality impacts identified through use of the modified Water Quality Checklist. A drainage/pollution control plan may be waived for all development that meets the General Exemptions and which identifies within the development plans sufficient BMPs to mitigate water quality impacts identified by the modified Water Quality Checklist and achieve the water quality protection goals for new development.

General Exemptions: a) rain water is diverted from an area smaller than 5,000 sq. feet; or b) impervious surfaces is less than 5,000 sq. feet.

Application: a permit must contain all of the following: c) Interim erosion and sediment control plan. d) final drainage and pollution control plan or equivalent list of BMPs and CEQA checklist.

Definitions: a) Drainage and Pollution Control Plan: set of measures design to control runoff after all other planned final structures and permanent improvements have been erected or installed.

b) Interim Erosion and Sediment Control Plan: a set of measures to control runoff during the period of construction and related disturbances.

Final Plan: The final plan shall incorporate into the design of new development and redevelopment projects, Best Management Practices (BMPs) and other applicable Management Measures contained in the California Nonpoint Source Pollution Control Plan, that will reduce to the maximum extent practicable the amount of pollutants that are generated and/or discharged into the City's storm drain system, creeks and rivers, and surrounding coastal waters. BMPs should be selected based on efficacy at mitigating pollutants of concern associated with respective development types or uses.

The applicant may propose the use of any pollution control techniques in the final plan provided such techniques are proven to be as or more effective than the equivalent Best Management Practices contained in the appropriate manuals and achieve the appropriate runoff control objectives.

The Administrator shall require the applicant to change the proposed techniques or BMPs, where he deems necessary.

Runoff Control: On soils having high permeability, all runoff in excess of predevelopment levels shall be retained on the site. This requirement may be waived where the health department determines that high groundwater, slope stability problems or other conditions would inhibit or be aggravated by onsite retention or where retention will provide no benefits for ground water recharge or erosion control.

On projects where onsite percolation is not feasible, all runoff must be detained or dispersed over nonerodible vegetated surfaces so that the runoff rate does not exceed the predevelopment levels. On site detention may be required where excessive runoff would contribute to downstream erosion or flooding. Any polices and regulations for any drainage zones where the project is located will also apply.

Any concentrated runoff which cannot be effectively detained or dispersed without causing erosion, shall be carried in nonerodible channels or conduits to the nearest drainage course designated for such a purpose or to onsite percolation devices. Where water will be discharged to natural ground or channels, appropriate energy dissipaters shall be installed to prevent erosion at the point of discharge.

Runoff from disturbed areas shall be detained or filtered by berms, vegetated filter strips, catch basins, or other means as necessary to prevent the escape of sediment and other NPS contaminants.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

PRELIMINARY REPORT

PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM

APPENDIX E: RECENT AREA PLAN UPDATE AND PROJECT COMMENTS

CALIFORNIA COASTAL COMMISSION
FEBRUARY 2, 2001

Notice of Availability of Review Draft

VED
JAN 31 2000
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Project Description
UPDATE OF THE NORTH COAST AREA PLAN

A. *What is the North Coast Area Plan?*

The Area Plan is an important part of the county general plan for Cambria, San Simeon, and the rural north coast. The current draft project description reflects the current updates, coastal commission recommendations, a new chapter on coastal access, and alternatives for Hearst Resorts. The project Description will be subject to environmental review, public review, and future hearings before the county and the California Coastal Commission.

The project description is organized into 3 parts:

1 - **North Coast Update , including Coastal Commission recommendations.** This is a draft updated plan text and maps.

2 - **Coastal Access.** This is a new chapter in response to Coastal Commission recommendations..

3 - **Alternatives for Hearst Resorts..** These alternatives are comprised of past decisions, including the existing plan.

B. *Why update this document?*

The proposed changes are part of a periodic updating of the General Plan to correct information, address current community issues, and provide a comprehensive setting for review of property owner requests. The project description is one of the first steps.

C. *What are the steps, and where is the plan in the process?*

- ☑ Data collection & Project Description
- ☑ Public/Advisory Council Issue Identification
- ☐ Draft Plan Preparation & Environmental Review
- ☐ Public Hearings - County Planning Commission & Board of Supervisors
- ☐ Review by State Coastal Commission
- ☐ Final review by the county

D. *How can I review and comment on the draft?*

Public participation is welcome throughout the process. Comments submitted in writing are preferred. Interested persons and groups may also wish to attend future public meetings and speak for or against the changes.

E. *Where to get a copy?*

Copies were distributed to local libraries in coastal communities. They are also available from the county.

Have questions? Contact:

John Hofschroer, Senior Planner
Department of Planning and Building
County Government Center
San Luis Obispo, Calif. 93408

☎ Phone: (805) 781-5600

Date: January 15, 2000

Price List:

1. Project Description $20.00

Make checks payable to: County of San Luis Obispo Department of Planning and Building

STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
72[illegible]NT STREET, SUITE 300
S[illegible]RUZ, CA 95060
(8[illegible]27-4863

August 25, 2000

Chuck Stevenson
San Luis Obispo County Department of Planning and Building
County Government Center
San Luis Obispo County, CA 93408

Subject: ***North Coast Area Plan Update Project Description***

Dear Mr. Stevenson:

We appreciate the opportunity to comment on the North Coast Area Plan Update Project Description (Update). Given the Commission's history with this project and the critically important coastal resource issues involved, it is essential that we work with the County early in the local coastal program update and amendment process. While our text specific comments will be provided in subsequent correspondence, our comments on the most significant Coastal Act issues raised by the Update are contained in this letter,

As has been previously discussed, the Commission's action on the County's former Update submittal provides a good indication of the Commission staff's position on many of the Coastal Act issues raised by the current review and Update. However, there are several new circumstances and changed conditions that have come about since January 1998 that must now be considered.

Visual Resources

One of the most important aspects of the Update's conformance to Coastal Act standards will be its ability to protect the highly scenic, rural, open space character of the northern San Luis Obispo County coastline. Applicable Coastal Act policies include; those calling for the protection of scenic and visual qualities of coastal areas; the provision and protection of maximum public access, including visual access; and, the preservation of special areas with unique characteristics that are popular destinations for recreational users and uses (e.g., Section 30210, 30251, 30252, and 30253(5)).

In order to craft a Plan that achieves consistency with these Coastal Act policies, the following changed circumstances must be taken into account:

- **Official Designation of Highway One Between the Monterey County line and the City of San Luis Obispo as a State Scenic Highway**. This is a clear example of the increased recognition being given to the unique and magnificent visual resources of the area.

- **Increased Popularity of Outdoor Recreation Activities**. The unique and spectacular viewsheds of the North Coast are not limited to the Highway One corridor. With the growing popularity of recreational boating, hiking, mountain biking, and many other outdoor

activities, the wild and scenic characteristics of the North Coast are appreciated from numerous vantage points. Views from the sea, public roadways, mountains, and coastal terraces of the spectacular natural surroundings of this coastal reach provide an incomparable and profound source of enjoyment and personal enrichment that attract and inspire people from all walks of life.

- **Designation of the California Coastal Trail from Oregon to Mexico as the National Millennium Trail for the State.** Among other means of enhancing coastal recreational opportunities, the Coastal Commission joins other public agencies at the federal, state and local levels in efforts to achieve the long-term objective of establishing and building the California Coastal Trail from Oregon to Mexico. The Coastal Trail has been selected by President Clinton as a National Millennium Trail, symbolizing its special significance to the entire country. The Coastal Trail section linking Monterey County and Cayucos will be one of the most highly scenic segments in the entire state, further underscoring the importance and urgency of preserving scenic, uncluttered land- and sea-scapes along the North Coast.

- **Heightened Efforts to Acquire Scenic Coastal Lands** (e.g., the marine terrace north of Cayucos, Rancho San Carpoforo, East-West Ranch). At the same time society sharpens and refines its awareness, understanding and appreciation of the economic, environmental, psychological and spiritual value and importance of open, rural coastal landscapes and spaces, we are witness to unprecedented development pressures placing at extreme risk our ability to preserve these fragile resources. Public land-managing agencies and private land trusts and philanthropic foundations have identified the Central Coast as experiencing some of the most intense development pressures in the nation. Their mounting efforts to protect these fragile resources through acquisition are indicative of the great value the public places on the preservation of remaining highly scenic, undeveloped stretches of the California coastline.

- **New Listings Under the Endangered Species Act.** The US Fish and Wildlife Service listed the Steelhead trout as a federally threatened species in December of 1997, reflecting the deteriorating health and vitality of west coast streams and rivers. In July 2000, the National Marine Fisheries Service published the 4(d) rules regulating "take" of Steelhead trout inhabiting the North Coast Planning Area. In addition, North Coast beaches have been identified by the US Fish and Wildlife Service as critical habitat in the Recovery Plan for the threatened Western snowy plover. Thus, the preservation of open coastal lands is not only important to human health and welfare, but is also essential to the survival of native wildlife.

- **The Dramatic Increase in Visitors to the Area.** Estimates show that more than 72,000 people visited the North Coast Elephant Seal rookery in 1999. This year, the Friends of the Elephant Seal docent program documented 60,000 visitors through the month of June alone. The natural, open character of the surroundings not only enhance the recreational experience of these and other coastal visitors, but are also essential to the continued use of the area by Elephant Seals.

- **Limitations to the North Coast Water Supply.** Limitations of a sustainable water supply appear to already have been exceeded, and are being put in further jeopardy by MTBE contamination from leaking underground tanks. Given this and other public service constraints, serious questions are raised about the ability to accommodate additional development on the North Coast.

- **Above Average Growth Rate.** As reported in *The Tribune* on May 5, 2000, figures released by the Department of Finance for the year 1999 indicate that San Luis Obispo County is growing at a rate of 2.5%, outpacing the State average of 1.7%, and making it the 8th fastest growing County in the State. To accommodate the influx of people into San Luis Obispo County, the Board of Supervisors has twice voted to allow development projects in excess of the county-wide growth cap. This rate of growth, and the County's efforts to accommodate it, underscores the importance of incorporating effective standards into the local coastal program that will prevent such growth pressures from degrading the unique scenic qualities of the North Coast.

- **The Ongoing Loss of Monterey Pine to Pitch Canker and its Possible Listing as Endangered Under The California Endangered Species Act.** Monterey Pine tree populations are being decimated by pitch canker, prompting the California Native Plant Society to petition for its listing as an endangered Species under California's Endangered Species Act. Meanwhile, new development continues to allow the destruction of hundreds of these trees each year. The decline of the species threatens habitat values as well as scenic qualities of the North Coast through the loss of forest and the increased visibility of development dependent on these trees for screening.

- **The Purchase of Remote Coastal Ranchlands for the Development of "Statement Homes"** (i.e., extremely large residences). Agricultural and rural lands are being purchased at record prices for the purpose of developing residential estates, with proposals for "statement" homes of unparalleled proportions. These residential estates are served by long, private roads that scar and degrade the landscape. The adverse impacts to the North Coast's scenic rural character posed by such trends are exacerbated by recent efforts to legalize substandard lots that may have been created long before passage of the Coastal Act. The Harmony coast is particularly vulnerable to this trend.

As you can see, even since the Commission's January 1998 action, specific circumstances have changed that give new meaning and an even greater sense of urgency to the importance of preserving the unique and sensitive resources along the north coast of the county (and elsewhere along the California coast). There is a growing recognition in California that highly scenic, unbuilt, natural landscapes are vanishing at an alarming rate and there is no geographic region of the State where this threat is more acute than on the coast. Further, one could argue that there is perhaps no reach of coast in California that is more deserving of the strongest possible protections than the southern gateway to Big Sur, with its rugged shoreline, expansive grasslands, productive wetlands and majestic coastal mountains with dramatic, sweeping vistas of land's edge. The North Coast is at once a powerful landscape of incomparable and stunning

beauty and yet is extremely vulnerable to degradation by development. This precarious situation demands bold and timely action by the county for the benefit of current and future generations.

With increasing leisure time and the growing popularity of outdoor recreation, ever greater numbers of people will journey to the seashore drawn by the promise of wild nature. There is little doubt visitors to California's rural coast come in large measure because it yet retains its wilderness character. The unbuilt North Coast is certainly an important economic driver for the entire county.

A principal reason California voters approved the Coastal Protection Initiative twenty-eight years ago, and the legislature made coastal protection permanent in 1976, was to safeguard, in perpetuity, the natural vitality and integrity of special places on the coast. The choice now before the County is clear: will the unique and vital scenic resources of the North Coast be saved or lost? The County has the unique opportunity to create a proud legacy by preserving forever the precious visual integrity of the North Coast for generations yet to come. In our view, doing so is consistent with the mandate of the Coastal Act, the rights of landowners, economic good sense, and is compelled by contemporary social, economic and environmental needs and goals.

Based on the paramount importance of preserving the North Coast's unique and threatened scenic public resources, we urge the County to incorporate within the Update comprehensive and progressive measures to prevent new development outside of existing urban areas that would be visible from public areas, including public roads, parks, trails, and state ocean waters. The two minor exceptions to this standard that might be considered are small-scale infill development within Old San Simeon Village that will enhance coastal recreation opportunities and be consistent with the scale, character and tradition of existing structures; and minor structures ancillary to, and necessary for, the continuation of a viable agricultural use.

Consistent with this objective, we support the Update's designation of all areas outside of the existing Cambria and San Simeon areas as a Critical Viewshed. However, we are concerned that the policies related to the protection of this viewshed do not go far enough. Most importantly, we believe it is essential that standards for the Critical Viewshed **prohibit new development that will be visible from public areas**. Towards this end, **all** lands outside of existing developed areas and the Old San Simeon Village should be designated for Agriculture and/or Open Space. Where the Update proposes to maintain the Rural Lands designation, such as in the area north of Cambria, a minimum parcel size of 160 acres should be pursued, and accompanied by the same strict development standards prohibiting development that will be visible from public areas.

Within the built up areas of Cambria and San Simeon Acres, the Update should provide measures to prevent any upcoast or downcoast encroachment outside of the existing developed area. Design standards for Cambria should ensure that new development conforms to the scale and character of the community, and will preserve Monterey Pine forests. For San Simeon, the update should provide redevelopment standards that call for the restoration of scenic view corridors that have been adversely impacted by previous development. San Simeon Acres would

also benefit from the creation of careful design standards aimed at promoting a more coherent town character that befits its beautiful coastal location.

Sensitive Habitats

Section 30240 of the Coastal Act requires that new development be compatible with the continuance of environmentally sensitive habitats areas, and prevent disruption of such areas. Similarly, Sections 30240 and 30231 call for the maintenance and enhancement of marine resources and the biologic productivity of coastal waters.

Among the important habitats of the North Coast Area that require such protection are the Monterey Pine Forests, an ecosystem endemic to the Central Coast; the beaches that support populations of Elephant Seals, the Western snowy plover, and other rare and threatened flora and fauna; the coastal streams and wetlands that support important species such as the threatened Steelhead trout and are essential components to the Pacific flyway and the health and biologic productivity or our coastal watersheds; the grasslands and oak woodlands that are the home of raptors, their prey, and numerous types of unique plants, lichens, insects, and other living things; and, the intertidal and marine environments that provide habitat for the Brown pelican, Southern sea otter, Gray whale and countless other ocean resources of global significance.

In the same way that we have come to recognize and appreciate the immeasurable values of the North Coast landscape, we are constantly learning about the important role these habitats play in sustaining the web of life. As we develop an understanding of the importance of these natural systems, we also begin to recognize the devastating effects that human development can have on their survival. Unfortunately, this often results in situations where we are searching for the tools to prevent the total collapse of a habitat, rather than taking the proactive steps needed to ensure its sustenance, enhancement, and prosperity. From the recent listing of the Steelhead trout, to the progressing complexities of controlling the spread of Pine pitch canker, the North Coast of San Luis Obispo is familiar with such scenarios.

In recognition of the fact that the North Coast Planning Area provides one of the best opportunities to preserve and enhance the natural heritage of California's Central Coast, we are calling on the North Coast Update to take the bold steps needed to accomplish this goal. Indeed, we are at a critical juncture where failure to take such actions may have dire consequences for the North Coast's unique and sensitive habitats, as illustrated by some of the changing circumstances previously described (e.g., growth pressure, listing of species, pitch canker, diminishing water supplies). Among the actions that need to be taken, the Commission staff requests that the Update direct special attention to:

Watershed Protection. Clearly, maintaining and enhancing the health of the area's coastal watersheds is a fundamental component to the protection of the North Coast's sensitive habitats. This includes protecting the quality of coastal waters, maintaining adequate flows to support aquatic habitats, and preserving the natural habitats and buffers surrounding the streams and wetlands.

There is a great deal of work going on throughout the state and nation to minimize the impacts of polluted runoff on our coastal environment. One example of such work is the statewide *Plan for Controlling Polluted Runoff* recently adopted by the Coastal Commission and State Water Resources Control Board (available for review on the Commission's website). The Update provides a unique opportunity to build on these efforts and incorporate progressive development standards within the Area Plan that will help maintain and enhance the health and biological productivity of coastal watersheds and offshore habitats. We strongly encourage County staff to work with our water quality division and other experts in the field to take full advantage of this opportunity.

It is also critically important to ensure that adequate levels of water are maintained in coastal creeks and wetlands to support the species dependent on these habitats. Serious questions have been raised about whether existing withdrawals, let alone additional future withdrawals, maintain adequate water levels to allow for the long-term survival of these habitats. It will be essential for the update to address this matter in detail, and take whatever actions may be needed to correct existing problems and prevent future problems. The current proposal to allow for a 2.3% growth rate within the Cambria Urban Area, at a maximum of 125 new residences per year, without the data and information needed to conclude that there is adequate water to support such growth, is unacceptable. Similarly, we have grave concerns about the Update's indication that intensified visitor-serving development maybe be allowed on the rural north coast in the future, before the necessary evidence has been provided to show that there is water available to accommodate such development.

Pine Forest Preservation. As recognized by the Update, the Monterey Pine Forest is a sensitive habitat that must be protected by new development. We support the additional measures that have been incorporated within the plan to address this issue. There are, however, additional strategies that must be considered. These include, but are not limited to: detailed standards regarding the handling of diseased wood; the designation and establishment of a Public Facility area specifically for the purposes of managing diseased wood and providing a clearinghouse for genetic material; and, perhaps most importantly, a more aggressive and scientifically based approach to protecting healthy trees and preserving areas, particularly large, unfragmented areas, essential to the long-term survival of the forest.

Before committing to a continuation of the TDC program in Cambria, the effectiveness of this program in protecting Pine Forest and other coastal resources should be evaluated. Alternative approaches, such as those that would extinguish development potential in the more healthy and established forests, rather than within the fragmented urbanized areas, should be considered. Irrespective of this program, all new development within the forest habitat should not only be required to minimize its impacts to the greatest extent feasible, but should also fully mitigate for the habitat lost as a result of the development by contributing to the long-term preservation of a contiguous forest system.

Agricultural Resources.

It is clear that agriculture, particularly grazing, has played an important role in preserving the scenic qualities and unique character of the North Coast landscape previously described. In addition, agriculture is a significant component of the local economy. The Coastal Act calls for the maximum amount of prime agricultural lands to be maintained in agricultural production, and prohibits the conversion of agricultural land to nonagricultural uses unless it can be shown that continued or renewed agricultural use is infeasible, or that such conversion would preserve prime agricultural land and concentrated development within existing urban areas (Sections 30241 and 30242).

It is also clear that the future of agriculture on the North Coast, and the scenic open space rural character associated with this use, is jeopardized by current trends which seek to replace traditional agricultural uses with residential estates, commercial ventures, and exclusive resorts. In addition to diminishing the scenic quality and unique character of the North Coast, the potential conversion of grazing land to such uses will place extreme pressures on the area's limited public service capacities (e.g., water, roadways), and threaten the continuance of the North Coast's natural habitats.

To ensure that the agricultural resources of the North Coast are protected by the North Coast Area Plan consistent with Coastal Act requirements, the update should: ensure that lands suitable for agricultural uses are appropriately zoned so; provide strict standards regarding the types of uses allowed on agricultural land; preclude the division of agricultural land except in very limited circumstances; and, require that all non-agricultural use be predicated by a showing that continued agricultural use is infeasible.

In terms of allowable uses, Commission staff believes it is essential that specific standards be established to prevent the conversion of agricultural lands to residential estates. While a residence accessory to an agricultural use may be appropriate where it is located and designed to prevent impacts on scenic views, sensitive habitats, and prime soils, we are greatly concerned that many types of residential development on the rural North Coast may exclude agriculture completely. To counter this potential, the Update should limit the size of residential development; prohibit fencing that would preclude continued agricultural use on the area surrounding the residence; and, restrict the use of the undeveloped portions of the site to agriculture and natural resource conservation and enhancement.

Similarly, we have serious concerns regarding the potential for substandard agricultural parcels to be further divided and adjusted in a manner that will diminish agricultural viability. Before any such land divisions are considered, a detailed review of the parcels history and legal status should be undertaken, including a showing that all necessary Coastal Development Permits have been secured for any Conditional Certificates of Compliance issued after January 1, 1973. If the parcels can be established as legal lots, the division should only be allowed where a minimum parcel size equivalent to a viable agricultural unit can be achieved for each lot. Where development is proposed on a substandard agricultural parcel, lot consolidations that will achieve agriculturally viable parcels should be pursued. In the event that a lot adjustment is being pursued to improve the agricultural viability of an adjacent holding, and it is impossible to achieve minimum lot sizes or consolidate lots, the adjusted parcel(s) should be kept to the

minimum size possible, and located in a manner that will avoid all impacts to scenic resources, agricultural lands, and sensitive habitats.

Finally, the Update should prescribe a stringent methodology for analyzing the viability of continued or renewed agricultural use when a non-agricultural use is proposed on a site designated for agriculture. While Section 30241.5 of the Coastal Act identifies the minimum elements of such an analysis, we would encourage the County to build on these requirements in a manner that takes into account the unique aspects of agricultural operations on the North Coast.

Notwithstanding the significant issues and concerns that remain to be addressed through the Update process, I would like to acknowledge the many improvements that have already been incorporated into the Area Plan by the Update, from the new chapter on Coastal Access to the expanded standards protecting sensitive habitats and water quality. While these and other sections require further work, we are pleased to see the significant effort that has been made to respond to some of the important issues raised by the Commission in its previous review.

The Commission staff is committed to continue collaborating with the County towards resolving the various Coastal Act issues raised by the Update, and we look forward to working with you in this regard. Towards this end, I hope you will not hesitate to contact staff analyst Steve Monowitz if you have any questions or would like to discuss these matters further.

Sincerely,

Peter Douglas

Peter Douglas
Executive Director

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

ALEX HINDS
DIRECTOR

BRYCE TINGLE
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

BARNEY MCCAY
CHIEF BUILDING OFFICIAL

PATRICK BRUN
ADMINISTRATIVE SERVICES OFFICER

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COASTAL COMMISSION

February 23, 1999

Notice of Availability of Review Draft:
ESTERO AREA PLAN UPDATE, AND AMENDMENTS TO THE ADELAIDA AND SAN LUIS OBISPO AREA PLANS

A. What is the Estero Area Plan? Why Does it Need to Be Updated?
The Estero Area Plan is the general plan, circulation (transportation) element, and Coastal Plan for the communities of Los Osos, Cayucos and surrounding rural areas. It is the 'community plan' for the area, and contains zoning, policies, programs, and standards to guide future land use and transportation. The update of the Estero Area Plan includes changes and clarifications to zoning, as well as to policies, standards, programs, and information regarding land use and transportation. The plan is being updated, because it has not been updated since it was developed in the early 1980's.

B. What are the Amendments to the Adelaida and San Luis Obispo Area Plans?
Revisions to the Adelaida and San Luis Obispo Area Plans will be considered concurrently with the Estero Area Plan Update, because the revisions are closely related to the Estero Area Plan. In the Adelaida Area Plan, a "planning impact area" is proposed, within which proposed land divisions, general plan amendments and other discretionary applications for development would be referred to the Cayucos Citizens Advisory Council for review and comment. In the San Luis Obispo Area Plan, a planning impact area is also proposed, within which discretionary applications would be referred to the Los Osos Community Advisory Council for review and comment. In addition, the boundary between the San Luis Obispo and Estero Planning Areas is proposed to be revised by including within the Estero Planning Area portions of Cuesta College and Camp San Luis Obispo that are within the coastal zone.

C. What Other Proposals will be Considered Together with the Estero Area Plan?
The following items are related to the Estero Area Plan Update, and are proposed to be considered concurrently with the Update:

1. An amendment to the Coastal Zone Land Use Ordinance to implement portions of the Los Osos Community-based Transfer of Development Credits (TDC) Program.

2. Disestablishment of Cayucos Agricultural Preserve No. 5, located along North Ocean Avenue in the community of Cayucos.

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600 • 1-800-834-4636
EMAIL: ipcoplng@slonet.org • FAX: (805)781-1242 or 5624 • WEBSITE: http://www.slonet.org/vv/ipcoplng

D. Who is Recommending the Estero Area Plan Update and Related Amendments to the Adelaida and San Luis Obispo Area Plans?

The Estero Area Plan Update and related amendments to the Adelaida and San Luis Obispo Area Plans are being recommended by the Cayucos Citizens Advisory Council and the Los Osos Community Advisory Council. The County Department of Planning and Building has worked closely with those advisory councils, as well as with other groups, agencies and individuals, to prepare the Estero Area Plan Update and associated amendments to the Adelaida and San Luis Obispo Area Plans.

E. What are the Next Steps in the Estero Area Plan Update, and Where is the Update in the Process?

- ✓ Public Hearing Draft Plan
- ☐ Community Meetings
- ☐ Environmental Impact Report
- ☐ Public Hearings at the Planning Commission and Board of Supervisors
- ☐ Review by California Coastal Commission

F. How Can I Comment on the Draft Estero Area Plan and Related Amendments?

Public participation is welcome throughout the process. Written comments are preferred. Interested persons and groups may also wish to attend future public meetings and hearings, and speak for or against the proposals in the Draft Estero Area Plan and related amendments.

G. Where Can I Obtain the Draft Estero Area Plan and Related Amendments?

Copies are available for review at libraries in Cayucos, Morro Bay, Los Osos, and San Luis Obispo. They are also available for review or for purchase at the Department of Planning and Building. To obtain a copy, write to:

County of San Luis Obispo
Department of Planning and Building, Accounting Section
County Government Center, San Luis Obispo, CA 93408

Please enclose a check for $23.00 (includes postage), plus $.60 postage for each additional copy, payable to County of San Luis Obispo.

H. Are Any Other Documents Now Available for Review?

A background report titled *Requested Amendments, Public Hearing Draft, January 1999*, is now available. This report evaluates general plan amendments requested by property owners in connection with the Estero Area Plan Update. Copies can be obtained as described above. The price is $8.16 (includes postage), plus $.60 postage for each additional copy.

Have Questions?

Please contact Mike Wulkan, Senior Planner
Phone: (805) 781-5608 FAX: (805) 781-5624 EMail: MWulkan@CO.SLO.CA.US

STATE OF CALIFORNIA – THE RESOURCES AGENCY

GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
TA CRUZ, CA 95060
427-4863

February 25, 2000

Nancy Rollman and Mike Wulkan
San Luis Obispo County Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

Subject: ***Coastal Commission Staff Comments on the Estero Plan Update Public Hearing Draft and associated Draft Environmental Impact Report***

Dear Ms Rollman and Mr. Wulkan:

Thank you for the opportunity to comment on the Public Hearing Draft of the Estero Area Plan Update (Update) and accompanying Draft Environmental Impact Report (DEIR). We apologize for not being able to submit our comments by the DEIR's February 8, 2000 receipt date. As you know, the Commission plays an important role in the review and certification of the proposed Update. We therefore greatly appreciate your consideration of, and attention to, these comments.

The Commission staff recognizes the tremendous long-term effort of County staff and participating citizens in the development of this update, and looks forward to working with all of the interested parties in finalizing the updated plan. Towards this end, our comments are intended to ensure that the policies of the Coastal Act, with which the Update must comply, are effectively addressed during the local review process. To the degree that these issues can be resolved prior to the submission of the final Update for Coastal Commission certification, the amount of time, and potential controversy, associated with the Commission's review can be minimized.

Our comments have been formatted in a manner that presents our overall perspective on the Update, including our most significant concerns and observations, in the General Comments section below. These are followed by Text Specific Comments regarding the Update, the DEIR, and the Requested Amendments documents. Please note that these comments are based on our preliminary and initial review of these documents. We hope that we can maintain an open dialogue with County staff and other interested parties throughout the local review, to ensure that these, and any other Coastal Act issues that may arise, are appropriately addressed.

Unfortunately, we have not had the opportunity to complete our review of the separate update chapter on Public Access, recently submitted to us. We greatly appreciate the County staff's willingness to accommodate our request that the Update include such a Chapter, as called for by Section 30500 of the Coastal Act. We will provide our comments on this Chapter as soon as possible, and prior to the Planning Commission hearing(s) on the update.

I. Overall Comments

A. Biological Resources/Environmentally Sensitive Habitats

In general, the Update contains many beneficial additions and revisions to the Estero Area Plan as currently certified. This includes, but is not limited to, the inclusion of new information regarding the type and extent of sensitive habitats and other important coastal resources throughout the planning area, as well as the incorporation of new policies and programs to better protect and preserve such resources. For example, we agree and support the Update's designation of coastal strand, coastal scrub, maritime chaparral, and Monarch butterfly habitats as Sensitive Resource Areas, and the clarification that such areas do not necessarily need to be mapped by the LCP in order to require protection.

Nevertheless, we are extremely concerned that the cumulative extent of buildout allowed by the Update may not effectively protect these and other important coastal resources. While the Update provides new policies and programs to protect sensitive habitats, it also proposes to increase allowable densities of development in such habitat areas within Los Osos. As a result, the DEIR proposes, on page 5.8-36, that density increases within areas of Endangered Species Habitat should be eliminated from the update. It is unclear if and how this, and the other mitigation measures proposed by the DEIR, will be incorporated into the Update. The Final EIR should specifically identify the revised policies, programs, and standards that are needed to carry out the proposed mitigation measures.

Even with the proposed mitigation measures, the DEIR states on page 5.8-36 that the impacts to sensitive habitats posed by the Update remain significant and unavoidable. We question the conclusion that such impacts are unavoidable, because it does not appear that an aggressive enough approach to avoiding and mitigating adverse impacts of new development on sensitive habitats has been pursued by the Update. Pursuant to Section 30240(a) of the Coastal Act, new development in environmentally sensitive habitats that is not dependent upon the resource should be avoided. If it is not possible for the Update to prohibit such new development in sensitive habitat areas, only the minimum amount of new development to avoid a "taking" of private property, based on legitimate economic-backed expectations, should be allowed. In general, this equates to one residence per lot of record. Such an approach is only applicable if there are adequate public services (e.g., water and sewer) available to accommodate such development (see part I.B of these comments), and the new development would not be a public nuisance. Any alternative approach to protecting sensitive habitat areas, such as the proposed TDC programs, needs to be accompanied by evidence that such an approach will effectively prevent a significant disruption of sensitive habitats, and will be compatible with the biological continuance of such areas.

In addition to the proposed voluntary TDC programs, the Update proposes to minimize the impacts of new development on sensitive habitats through off-site mitigation and mitigation banking. While creative measures such as these may deserve further consideration, we have many questions regarding the specific implementation of such programs (see text specific comments below), and whether they will effectively protect the biological productivity and diversity of the Estero area. Unfortunately, the DEIR has not specifically analyzed the overall

effectiveness of such programs, or provided mitigation measures that would achieve these objectives. Information that should be provided by subsequent versions of the Update and/or the Final EIR to address this issue includes:

- How will the number of credits granted to a TDC sending site be determined?
- How will the increased density and intensity of development in the TDC receiving areas affect sensitive habitats in and around the receiving area?
- Why not designate receiving areas in portions of the planning area that do not contain, or are not adjacent to, sensitive habitats?
- Why is participation in the TDC programs a voluntary rather than mandatory requirement?
- What will be the residual impacts to sensitive habitats within the TDC areas under complete or partial implementation of the programs? How does this relate to the cumulative impact of development on the biological productivity of the Estero area?

For portions of the planning area that contain sensitive habitats but are not covered by the proposed TDC programs, such as vacant parcels within the central area of Los Osos, the Update and EIR should address:

- Which portions of the Urban Area contain areas of valuable habitat that should be preserved, and which areas do not provide habitat that is viable over the long term and should be available for development combined with off-site mitigation? Please provide specific biological data and information that provide a basis for such determinations. For those urban habitats that deserve long-term protection, the Update/EIR should provide specific standards that will be used to avoid adverse impacts to such areas.
- Where impacts to sensitive habitats within the urban area will be addressed through off-site mitigation, what will be the minimum size, type, and duration of off-site mitigation required? What are the specific areas where such mitigation must be located? Are there adequate mitigation sites available to carry out this approach? How will the provision of of-site mitigation relate to the timing of new development? What will be the overall amount of habitat lost through this approach? How does this compare to the amount of habitat that could be lost in the proposed mitigation areas under existing land-use regulations?

This and other information necessary to analyze whether the TDC and off-site mitigation approach proposed by the Update will effectively protect special status species, their habitats, and the overall biological productivity of the effected area, should be included in the Final EIR.

Additional important information that needs to be provided by the Final EIR in order to allow for an assessment of the Update's conformance to Section 30240 of the Coastal Act are specific analyses of the proposed roadway extensions within or adjacent to environmentally sensitive habitats. Of particular concern is the proposed extension of 3rd street, which is expected to impact wetlands, and the proposed extension of South Bay Boulevard, which will involve the removal of, and impacts to, important coastal scrub and maritime chaparral habitats.

B. New Development/Public Service Capacities

Another area of significant concern is that the level of development allowed by the Update can not be supported with the region's existing water supplies and wastewater treatment capacities.

In the case of Los Osos, existing water withdrawals from the groundwater basin are estimated to exceed the safe-yield by close to 1,400 acre feet per year[1], and there is a prohibition against septic system discharges due to the adverse impacts such discharges pose on water quality and aquatic habitats. Yet the proposed Update will result increase the population buildout in Los Osos by 9,094 people (3,334 residential dwellings)[2]. In the case of Cayucos, there is only 154 acre feet per year available to serve new development, under the current occupancy rate of 64%. (According to Table 3-3 on page 3-17 of the Update, there would only be 12 acre-feet available to serve new development if existing development is occupied 100% of the time.) The proposed update will increase the buildout of Cayucos by 2,352 people ((621 residential dwellings)[3]. This will exceed the existing allocation of 600 acre feet per year from Whale Rock Reservoir by 181 acre feet per year[4].

In response to the water and wastewater treatment constraints in Los Osos, the Update relies upon the Regional Water Quality Control Board's prohibition of septic system discharges to preclude new development from occurring until a wastewater treatment system is constructed. This system is, in turn, being relied upon for drinking water supply, along with the potential allocation and delivery of 600 acre feet per year from Lake Nacimiento. In the case of Cayucos, the water needed to support buildout is dependent upon potential allocation and delivery of 124 acre-feet of water from Lake Nacimiento, and an assumption that new and existing development will not have a 100% occupancy rate.

There are many reasons why these assumptions will not be adequate to address the requirements of Coastal Act Section 30250[5], including, but not limited to:

- The RWQCB's prohibition against septic system discharges will not prevent new development that will place additional demand on water supplies in Los Osos. In addition to the fact that much of the development provided for by the update is outside of the prohibition area, there is the potential for exemptions to this prohibition, and alternative means of wastewater treatment that would allow development to move forward prior to a community wide treatment system.

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[1] DEIR, page 5.4-20, Table 5.4-10
[2] DEIR, page 3-31. Table 3-13
[3] DEIR, page 3-31. Table 3-13
[4] DEIR, page 5.4-19, Table 5.4-8, assuming an 89% occupancy rate of existing units and 95% of new units.
[5] Section 30250 states in part "(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels."

- The ability of a wastewater treatment system to recharge the groundwater basin with the quantity of water needed to supply buildout of the Update, at a rate equivalent to the rate at which increased withdrawals will be required by new development, has yet to be established. Even with the projection that a sewer system could increase the safe yield of the groundwater basin by 2,000 acre feet per year, demand under buildout is estimated to exceed the safe yield of the groundwater basin by 190 acre feet per year.

- Neither the DEIR nor the Update provide specific information regarding the process by which allocations from Lake Nacimiento can be secured, analyze the feasibility for this to occur, or evaluate the dependability of such allocations in drought situations. Nor is there an analysis of the environmental impacts associated with pipeline construction. Even if this water becomes available, Cayucos would still have a shortfall of 57 acre feet per year under buildout[6].

- The potential for residential units to be occupied at higher rates needs to be accounted for by the Update. Overall trends regarding the changes in rates in occupancy over time should be provided by the EIR, and gauged to determine the likely ultimate demand for water under buildout.

Given the significant uncertainties surrounding future water supplies needed to support the level of development that would be accommodated under the Update, it's compliance with Section 30250 of the Coastal Act must be called into question. Substantial reductions in the potential buildout of the urban areas, proportional to the amount of water that is known to available on a sustainable basis, therefore appears to be necessary. All land divisions, or increases in allowable density, should be prohibited within the Los Osos groundwater basin and the Cayucos urban area until these issues are resolved.

It should also be made clear throughout the updated Area Plan that no new development will be permitted until evidence of an adequate and environmentally sustainable water supply and (in the case of Los Osos) wastewater treatment system is provided. Said evidence should be required at the time of coastal development permit application, and should ensure that adequate capacities have been reserved for Coastal Act priority uses.

With respect to wastewater treatment capacities in Los Osos, it is premature to assume that a future wastewater treatment system will be able to accommodate the increased buildout proposed by the Update. Until the ultimate capacity of such a system is known, and the ability of the system to abate existing ground and surface water quality degradation is established, it is inappropriate for the Update to allow for new development that will generate additional wastewater in Los Osos.

C. Other Coastal Act Issues

In addition to our significant concerns regarding the Update's impact on sensitive habitats and public service capacities, the following Coastal Act issue areas should be further considered

[6] DEIR, page 5.4-19, assuming 89 percent occupancy rate for existing units and 95% for new units (current occupancy rates are estimated to be 64%).

during the local review, and analyzed in more detail by the Final EIR. Please note that additional text-specific comments regarding these issue areas are provided in sections II a, b, and c of this letter

Conversion of Agricultural Land: Where agricultural lands are proposed to be converted to non-agricultural land use designations, and analysis of conformance with Coastal Act Sections 30241 through 30242 should be provided by the Final EIR.

Coastal Access and Recreation: While the Update contains many beneficial policies and programs to enhance coastal access and recreation opportunities, we are concerned about the addition of language regarding the specific legal concepts of "nexus" and "rough proportionality" that reflect current Constitutional Fifth Amendment takings clause jurisprudence. The incorporation of such language, based on particular judicial cases, is not necessary to ensure that the public's right of access to and along the shoreline is appropriately balanced with the rights of private property owners, as this is already provide for in existing policies. Moreover, such language may limit the provision of legal and appropriate public access and recreation facilities that may be warranted as judicial case law evolves and future legal interpretations might encourage. In addition, the lack of guidance regarding the application of these concepts may lead to a dismissal of access and recreation requirements that may be appropriate under the current interpretations of the Fifth Amendment.

Priority for Visitor-Serving Uses: Proposals to allow for mixed-uses in commercial areas need to be evaluated for overall impacts on visitor-serving opportunities and consistency with Section 30222 of the Coastal Act. This is particularly important in areas with a Visitor-Serving Combining Designation. At a minimum, a maximum number of residential units associated with mixed-use projects should be prescribed by the Update. This limit should ensure that residential uses in commercial areas will not inhibit the provision of adequate facilities necessary to serve coastal access and recreation, or jeopardize the area's ability to meet the demand for visitor-serving accommodations. All residential uses should be accompanied by documentation recognizing that commercial and visitor-serving uses have priority in the area.

Protection of Visual Resources: While the Update provides new policies and programs that will help protect the scenic resources of the Estero area, we remained concerned that the development accommodated by the Update will significantly degrade the aesthetic qualities of visually prominent areas such as the southern hillsides of Los Osos. The Final EIR should include more thorough analyses of the visual impacts posed by new development in such visually significant areas, and should consider the impacts to views available from public beaches, Morro Bay, and the Pacific Ocean. Applying these analyses, the EIR should identify more detailed visual protection criteria that will avoid and minimize the impact of new development on visually sensitive areas. The Final EIR should also address the visual impacts of the proposed TDC programs.

Coastal Hazards/Seawalls & Fire Protection: The proposal to allow for new development that requires seawalls, where seawalls exist on both sides of the proposed development, runs contrary to the requirements of Coastal Act Section 30253(2). This proposal is also complicated by the fact that many seawalls within Cayucos may have been installed with out the proper permits.

Before such an approach can be considered, a more comprehensive analysis of the impacts of existing and additional seawalls on coastal access and recreation, and on natural shoreline processes, must be provided. This should include, among other things, a sub-regional approach to seawall development (including repair and maintenance of existing seawalls, and the resolution of unpermitted seawalls), that minimizes such impacts.

Another important issue relative to seawalls and bluff setbacks is the existing area plan's premise, retained by the Update, that new development should be setback to withstand 75 years of erosion. In investigating this issue, Commission staff has found that most structures last at least 75 years. We therefore suggest that setbacks adequate to withstand at least 100 years of erosion should be required by the update. Setback requirements should also include a buffer adequate to allow for construction measures necessary to abate the hazard when 100 years of erosion have been reached (i.e., remove or relocate the threatened structure). Where setback requirements have been developed to avoid the need for future seawall, approval of the development should be accompanied by a condition that specifically prohibits the construction of a seawall to protect the development.

In terms of Fire Protection, the Update should include specific standards regarding new development within areas that have significant fire risks. These standards should be designed so that the necessary setbacks are achieved without causing the removal of vegetation that supports sensitive habitats and/or provides scenic resources. In addition, the update should clarify the permit requirements and environmental review needed for any vegetation clearance proposed in order to protect existing development.

Marine Resources/WaterQuality: While we support the intent of the Update to address water quality issues, we are concerned that the proposed policies and programs lack the specificity necessary to ensure effective implementation and protection of aquatic resources. Such policies and programs should provide detailed performance standards to carry out the objective of watershed protection, using the Coastal Commission's and State Water Resource Control Board's *Plan for Controlling Polluted Runoff* as guidance. These standards should include, but may not be limited to: requiring the use of specific types of Best Management Practices (e.g., oil/water separators, vegetated swales/filter strips, detention basins, etc.), particular to different types of land uses, soils, and topographies; establishing minimum capacity requirements, performance standards, and monitoring provisions for drainage facilities; and, maintaining natural drainage patterns, quantities, and velocities to the greatest extent feasible.

Archaeological Resources: The Final EIR should evaluate archaeological resource protection standards for conformance with Section 30244 of the Coastal Act[7] and, if necessary, provide revised language necessary to achieve consistency.

[7] Section 30244 states: "Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required."

II. Text Specific Comments

A. Draft Update Language

Page 1-14, Planning Policies: The proposed Update will significantly expand on the number of policies contained in the Area Plan, and add many new goals. Please clarify how these new policies and goals relate to the Framework for Planning. Are they on the same footing as the "Planning Area Standards" in terms of providing a standard of review for new development? Do they supersede Coastal Plan Policies and Coastal Zone Land Use Ordinances?

Page 1-15, Area Plan Maps: It should be clarified that the Combining Designation Maps should be used for guidance only, and that the presence of environmentally sensitive habitats on a site is dependent upon the on the ground resources rather than a designation on a map.

Page 2-9, Cayucos Goal 10: How will the proposal to "Concentrate most new major tourist-oriented commercial development on North Ocean Avenue, west of Cayucos Creek" affect the ability of the area to accommodate the demand for visitor-serving facilities that provide coastal access and recreation opportunities? Will concentrating these facilities in the proposed area have an adverse impact on scenic or other coastal resources that could otherwise be avoided by distributing such facilities throughout a greater area?

Page 2-17, Jobs/Housing Balance: This discussion identifies the low ratio of jobs to housing in the communities of Cayucos and Los Osos. While the Update will slightly improve this situation, are there additional revisions to the Area Plan that would help achieve a better balance?

Page 2-29, suggested amendments to Growth Management Ordinance: While the proposed reductions in the Growth Rate may be a useful tool for protecting coastal resources, please explain how the proposed Growth Rate of 2.3% in Cayucos and Los Osos was arrived at? Are there adequate public service capacities to accommodate such growth (please see Section I.B of this letter). Please clarify the relationship of the Growth Management Ordinance to the LCP.

Pages 3-8 & 3-9, Figures 3-1 and 3-2: Please show the location of the Urban Service Line (USL) and Urban Reserve Line (URL) on these maps.

Page 3-12 & 3-13, Comparison of Water Supply and Demand: Neither the discussion on page 3-12, nor Table 3-2 adequately reflect the existing overdraft of the groundwater basin in Los Osos, or that the buildout of Los Osos and Cayucos will exceed available supplies. This important issue should be recognized by the Area Plan, and measures to reduce buildout to a level that can be sustained by available water supplies should be provided (see part I.B of this letter).

Page 3-17, Projected Water Supply and Demand: Please explain the process of obtaining Lake Nacimiento water, and describe the infrastructure improvements that would be necessary to deliver such water. The feasibility of acquiring additional allocations, and the environmental impacts of constructing the necessary infrastructure, should be analyzed by the Final EIR and taken into consideration during the local review of the Update.

Page 3-27, Los Osos Sewage Disposal: We recommend that the third paragraph describing the Coastal Commission's consideration of the County sewer project be updated as follows:

> ~~In June 1999,~~ Upon appeal to the California Coastal Commission, ~~is scheduled to decide whether or not to approve~~ the county-designed sewer project has been held in abeyance while~~. If it is approved,~~ the Los Osos Community Services District ~~will~~ determines whether ~~to construct the approved system or~~ to pursue the county designed system or some other course."

We also think it would appropriate to acknowledge, within this discussion, that the CSD is currently considering an alternative system, which may be located in the Morro Shores area.

Page 3-40, Fire Protection: This discussion should be expanded to recognize that there are significant fire hazards posed by development that is surrounded by natural vegetation. To address this issue, the update should provide standards that require new development to be sited and designed to avoid disruption to sensitive habitats and visual resources. Additional standards to address the impacts to coastal resources posed by vegetation clearance activities designed to protect existing development should also be provided.

Page 3-49, Los Osos Water Management Program: While we support the intent of this program to provide a clean and sustainable water supply, we are concerned that by virtue of being a "Program" rather than "Policy", the provisions of the program have not been given appropriate status. Many of these provisions, such as the implementation of water conservation measures, should be required of all new development.

Pages 3-52 and 3-53, Cayucos and Los Osos Drainage Plans: While we support the intent to undertake a cumulative assessment of cumulative drainage issues and impacts, we disagree that the implementation of specific measures to minimize the impacts of drainage on coastal resources should be put on hold until these drainage plans are developed. Rather, we recommend that the Update incorporate progressive performance standards for new development that require the inclusion of Best Management Practices for the control of polluted runoff.

Page 4-5, Distribution of Land Uses: We disagree that the plan "provides a sufficient amount and arrangement of land use categories (zones) to meet projected population and economic growth until at least 2020, ***consistent with available resources and services***" (emphasis added). Please refer to Section I.B of this letter.

Page 4-5, Marine Resource Policy: While we are supportive of this Policy, by itself it is insufficient for effective marine resource protection. As discussed above, we urge the inclusion of specific performance standards for new development that will ensure the protection of marine resources and coastal water quality. Accordingly, we suggest the incorporation of area-wide policies that require new development to be sited, designed, and constructed in a manner that will avoid erosion and sedimentation and protect aquatic habitats, among other means, by providing construction and post-construction Best Management Measures and adequate setbacks. These policies should allow the planning division to require additional setbacks, or expand upon

specific performance standards, where necessary to protect marine resources and coastal water quality.

Page 4-7 and 4-8, Rural Area Land Use Policies: We agree with Policies 1-5 calling for the protection of agriculture, open space, and sensitive resources within the Estero Area, also reflected by policies B.1-3 on page 4-8. We are concerned, however, that the means of achieving these objectives have not been adequately articulated by the Update. For example, the Update does not, but should, provide additional tools for addressing non-conforming agricultural lots that prevent their conversion to non-agricultural uses. The Update itself appears to conflict with proposed Policy 5, prohibiting increases in density or expansion of urban areas if resulting development will adversely affect ground water supplies needed for agricultural use.

Page 4-11 and 4-13, Estero Marine Terminal Property: Why not require, rather than "support", provision of improved coastal access and amenities?

Page 4-12, Recreation Policies: Policy 3 appropriately limits uses within Recreation areas to "recreation and visitor-serving-related uses". However, the types of uses allowed under the LCP's Recreation Land Use Category, per Table O, such as residential uses, appear to conflict with this objective. How will this be remedied?

Page 4-14, Residential Suburban Policies: We agree with the intent to avoid suburban development outside of the Urban Reserve line. However, we question the means of accomplishing this by directing it to the Los Osos Urban area, due to the fact that there does not appear to be adequate infrastructure to support existing, let alone additional, residential development.

Page 4-16, General Cayucos Policy 2: We support the policy to prohibit expansion of the URL; the phrase "Generally" should be removed, as it weakens this policy.

Page 4-16, General Cayucos Policy 6: Limited residential development within office and commercial areas should be allowed only where it can be found that such development will not interfere with the provision of adequate facilities necessary to serve coastal access, recreation, and visitor-serving uses. A prohibition of residential development within areas having a vistior serving combing designation should be considered.

Page 4-18, Figure 4-1 (Cayucos Neighborhoods): Revisions to the URL/USL should be considered in order to bring the demand of water under buildout in line with available supplies. (This comment also applies to the Official LCP Maps.)

Page 4-19, Cayucos Recreation Policies: The Policy 1 reference to Section F needs to be corrected. The text referring to Chapter 3 for programs to increase recreation opportunities is inappropriate, as Chapter 3 refers the reader the Chapter 4. How will the deficiency of neighborhood parks in Cayucos be resolved in light of the standards identified in Chapter 3?

Page 4-21, Residential Single-Family design standards: please provide a reference to the section of the area plan providing the design standards being referenced by this new paragraph.

Page 4-24, Policies for Official and Professional land use designations in the Cayucos Drive area: The proposal to allow single-family and multiple-family residential uses as principal uses in this land use category appears to conflict with the need to improve the jobs/housing balance, as discussed earlier in the area plan.

Page 4-29, Figure 4-2 (Los Osos Neighborhoods): Please identify the USL on this map, and consider revisions to the USL/URL that would diminish service areas in accordance with limited water supplies and other infrastructure constraints. (This comment also applies to the Official LCP Maps.)

Page 4-30 & 4-31, Los Osos General Policies: Please refer to the above comment, and Section I.B of this letter, regarding Policies 1 and 6. Policy 9 should require that street trees be drought tolerant and non-invasive.

Page 4-32, Los Osos Recreation Policy 2: When encouraging the development of tourist-oriented facilities and activities, it should be noted that such development must be consistent with the protection of coastal resources (e.g., sensitive habitats and scenic views), and acknowledged that such development is dependent upon securing necessary public service capacities. Towards this end, the Update should incorporate policies that require the reservation of public service capacities needed to accommodate recreationally oriented activities and facilities. Parts d and e of this policy should require that recreational activities within or adjacent to sensitive habitats include specific monitoring and management measures to ensure that such activities take place consistent with the protection of the resources.

Page 4-33, 3rd paragraph: It is difficult for us to concur with the statement that the "area above Highland Drive and below a future extension of South Bay Blvd [in] the Southeastern Hillsides is well suited to residential single family development, a hotel and conference center with accessory uses..." until we have been presented with a detailed assessment of the constraints of the site (e.g., habit and visual). The same applies to the proposed development of the Western Fringe area, as suggested in the 5th paragraph (please see our comments regarding page 7-140 of the Update).

Page 4-36, Policies for Development in the residential Suburban Category West of Pecho Road: In encouraging the submittal of a single development application for this area, it should be noted that any development is dependent upon: being able to provide adequate services (e.g., water and sewer); avoiding the disruption of environmentally sensitive habitats; and, protecting scenic views to and from the coast.

Page 4-37, TDC Program: Please refer to Section I.A of this letter.

Page 4-42, Morro Shores Mixed Use Area: Policies for this area should ensure that future development does not preclude potential construction of a sewer treatment system in this area, as currently proposed by the CSD. They should also address the habitat protection/mitigation requirements for future development. (Such requirements should be articulated for all Land Use Designations within which future development has the potential to impacts sensitive habitats, even if it is just a reference to other LCP standards).

Page 4-43, Commercial and Office Areas, Policy 5: Parking requirements should only be reduced if alternative methods of providing parking are shown to be adequate, particularly regarding the protecting of parking needed for coastal access and recreation.

Page 4-4, Central Business District Policy 5: This and other policies contained in the Update suggest the streamlining of permit processing if certain provisions are included in development applications. How will the process be streamlined, and who will determine whether an application qualifies for streamlined processing?

Page 4-45, Baywood Commercial Area Policy 7: Access to, and recreation along and on the Bay should be accompanied by interpretive facilities, as well as resource monitoring and management programs, to ensure habitat and water quality protection.

Page 4-46, Baywood Commercial Area Policy 10: The proposed design plan appears to be more of a "program" rather than "policy". Until this plan is developed, the Update should provide more specific design standards, and requirements for new development, that achieve the objectives identified in this Policy.

Page 4-49, Adeladia Planning Area: It is our understanding that this planning area is not within the Coastal Zone. Please clarify the relationship of this program to the LCP.

Page 4-50, Public Facility: It appears that this Title is intended to be eliminated by the update; this is not reflected in the text.

Page 4-51, Policy 3 for Cayucos regarding Seawalls: Please refer to Section I.C of this letter. In response to part b of this policy, private beach accessways should be prohibited if any portion of them would be located on public property or interfere with coastal access, recreation, or the protection of sensitive habitats.

Page 4-55, Program 5 (Los Osos Greenbelt): While we support the establishment of a greenbelt, its use as mitigation for impacts of new development on sensitive habitats is dependent upon evidence that such an approach will effectively protect special status species and the biological productivity of the area (please refer to Section I.A of this letter).

Page 4-62, County Parks: Please identify the location of all proposed parks on Land Use Maps. If the development of such parks pose impacts to sensitive habitats, these impacts should be evaluated by the Final EIR, and alternative sites should be considered.

Page 5-6, Areawide Circulation Policies: All circulation projects should be required to implement Best Management Practices for the control of polluted runoff during and after construction.

Page 5-6, Rural Area Circulation Policies: We suggest incorporating additional policies that require new development to minimize the length and width of new or improved roadways, particularly when necessary to avoid the excessive conversion of agricultural land and minimize impacts to visual resources associated with road cuts along hillsides. Exceptions to this may be warranted if necessary to avoid development on prime agricultural land, prevent development

from being visible from public roadways, or to achieve adequate setbacks from sensitive habitats, provided that the resulting impacts from roadway construction are appropriately mitigated. Where extensive roadway development is needed to provide access to residential lots that are located a far distance from existing roads, reconfiguration of the lots should be considered, particularly if the intended use is residential. In such cases, exceptions to minimum lot sizes that would facilitate a more accessible configuration should be considered.

Page 5-9 through 5-11, Circulation Issues: Are the provisions listed under "Existing Deficiencies and "Future Needs" considered policies? Will new development be required to help address these deficiencies and provide needed improvements?

Page 5-11, Future Circulation Needs for Los Osos: We agree with the proposal to preserve rights-of-ways and offers of dedication for vertical and lateral accessways that serve coastal access and recreation. However, there may be some cases where existing paper streets could provide future access to parcels on which development would have significant adverse impacts to coastal resources (e.g., in wetlands or other sensitive habitats). In such cases, the County should consider abandoning a portion of the right-of-way so that general vehicle access would be inhibited, but public access, if needed and appropriately managed, could be accommodated.

Page 5-14, Arterial Improvements: The Coastal Act requires that Highway One remain two lanes in rural areas. The maximum length of the lanes (one mile) appears excessive; on what basis was this maximum established? How does this proposed expansion relate to potential improvements in the North Coast Planning Area? The proposed addition of passing lanes on Highway One West of Cayucos (as well as all other roadway improvements proposed by the Update) should require that any expansion of roadway widths necessary to accommodate these lanes should avoid the conversion of agricultural land, impacts to sensitive habitats, and the need for shoreline protective devices.

Page 5-16, South Bay Boulevard Improvements: We have significant concerns regarding impacts to wetlands associated with the proposed improvement of this and other roadways in the Planning area (e.g., 3rd street extension). On what basis have these improvements been determined to be necessary and the minimum required? If there are no feasible means of avoiding this roadway expansion and associated wetland impacts, a prescription for the way in which such impacts must be mitigated should be provided by the Area Plan and evaluated by the Final EIR.

Page 5-17, Collectors Improvements: Please see above comment, which is applicable to the proposed extensions of 3rd Street and South Bay Boulevard. (In the case of South Bay Boulevard, we are concerned about impacts to coastal scrub and maritime chaparral habitats.) Any other circulation improvements that pose impacts to sensitive habitats should be similarly analyzed, and alternatives that would avoid such impacts should be pursued.

Page 5-20, Street Trees: Street Trees should be drought tolerant and non-invasive.

Page 5-24, Equestrian/Hiking Trails: Please identify the importance of managing, monitoring, and maintaining trails and trail uses in order to protect sensitive habitats.

Page 5-24, park-and-ride lot: Please identify the proposed location of this facility so that it is taken into consideration by future development proposals.

Page 5-29, Highway 1 Passing Lanes: Please see comment regarding page 5-14.

Page 5-36, Baywood Park Area: Proposed program 4 appears to be referencing Figure 5-6 on page 5-37, but that is not what appears in the text. Please clarify. We are concerned that Figure 5-6, and the provisions of Program 4, do not provide adequate room for safe pedestrian and bicycle circulation.

Page 5-36, Trails: We are supportive of the proposed trail links. This program appropriately acknowledges that trails located near riparian corridors and scenic areas must not cause impacts on sensitive resources. It should be clarified that this is not limited to riparian corridors and scenic areas, but applies to all sensitive habitat areas. This comment and program should not be construed to imply that trails are not allowed in such locations. Rather, the provision of such trails needs to be accompanied by appropriate management plans and interpretive facilities that will help prevent trail use from having adverse impacts.

Page 6-4, Bluff Erosion GSA: Please consider revising the required setback on bluff top lots so that new development can withstand 100 years, rather than 75 years of erosion (see part I.C of this letter). Also, please clarify the intent of adding the phrase "generally" to setback requirements, which appears to substantially weaken the purpose of the GSA Combining Designation.

Page 6-5, Sensitive Resource Area: In the paragraphs introducing this Combining Designation, please note that the location of sensitive resource areas are not dictated by LCP maps and figures, but are based on the actual presence of sensitive resources within a particular area.

Page 6-8, Coastal Strand, Coastal Sage Scrub, Dune Scrub, & Maritime Chaparral Habitat (SRA): We support the designation of such habitats as SRA's. Definitions of such habitats should be provided by the Update to ensure that they can be appropriately identified. In describing this SRA, it should be acknowledged that there are many patches of such habitat remaining within the urban area. As discussed in Part I.A. of this letter, we are concerned that the preservation of such SRA's has not been effectively addressed by the Update.

Page 6-11, Los Osos Habitat Conservation Policy 3: As previously noted, we can not support the off-site mitigation approach until a more complete assessment of its effectiveness is provided (please see part I.C of this letter).

Page 6-11, Los Osos Habitat Conservation Policy 6: The development of an HCP or NCCP appears to be more of a program than a policy, and is listed as a program on page 6-25. A more appropriate policy would be to require new development to conform to such a plan/program when one is in place. In the mean time, there needs to be policies that specify the minimum requirements for habitat protection and mitigation when development is proposed in sensitive habitat areas.

Page 6-13, Los Osos Habitat Conservation Policy 7: While we support the monitoring efforts proposed by this policy, it is important to recognize that monitoring should not substitute for regulating new development in a manner that avoids cumulative impacts to sensitive habitats. Again, this appears to be more of a program than a policy. A more appropriate policy would be to require new development to provide biological monitoring and maintenance in a manner that is coordinated on a regional or sub-regional basis pursuant to the monitoring program.

Page 6-16, 2nd paragraph: Again, the proposal to use off-site mitigation for impacts to snail habitats in the Urban Area needs to be analyzed for effectiveness before this approach can be incorporated into the LCP. Until that time, sensitive habitat areas need to be preserved to the greatest degree feasible in their existing locations.

Page 6-20, Morro Bay Estuary and Watershed Policies: While agree with and support these policies, we believe that they need to be accompanied by more specific policies that articulate the means by which the intent and objectives of these policies can be realized. (Please see part I.A of this letter.)

Page 6-25, Program 5 regarding Seawalls: Please refer to part I.C of this letter.

Page 6-25, Habitat Monitoring: How will this program relate to, and be coordinated with, the LCP's Resource Management System?

Page 6-26, Other Sensitive Habitat Protection Programs: Protection of the sensitive habitats listed in part b of this program should be required as a policy. An SRA Combing Designation should also be provided for these habitat areas.

Page 6-27, Morro Bay Estuary and Watershed Programs: Please refer to the above comments regarding page 6-25 and consider listing some of the program elements, such as monitoring and restoration requirements, as policies.

Page 6-29, TDC Program: The overview of the proposed TDC programs refers to a Section of the CZLUO specific to a TDC program in the North Coast. How will this ordinance be changed and implemented with respect to the TDC programs proposed for Los Osos. How has the TDC program been working in Lodge Hill, and can the County's experience in administering that program provide guidance in perfecting this ordinance? Please refer to part I.A of this letter for our overall comments on the proposed TDC programs for Los Osos.

Page 6-30, TDC Receiver Sites: Are any of the proposed receiver sites within the septic system prohibition area? If so, how will implementation of this program be coordinated in relationship to the required sewer project? Receiver sites should not be located in areas containing sensitive habitats. If proposed adjacent to sensitive habitats, receiver areas should have specific setback requirements and habitat protection measures defined by the program.

Page 7-8, Areawide Resource Protection Standards: These resource protection standards should specifically prohibit land divisions that would create new lots in sensitive habitat areas or visually prominent locations. To the degree feasible, the consolidation of lots in such areas should be pursued by these standards. Parts A.1.b and e of these standards should not only

require that the location and intensity of new development be designed to protect the sensitive features of the site, but the sensitive features adjacent to the site as well.

Page 7-8, Areawide Resource Protection Standards A.1.c: We do not agree that the avoidance of hazards on a site proposed for new development should take precedence over the protection of environmental, archaeological, and visual resources. There is no Coastal Act basis for such a hierarchy. Rather when policy conflicts occur, the Coastal Act calls for such conflicts to be resolved "in a manner which on balance is the most protective of significant coastal resources" (Coastal Act Section 30007.5).

Page 7-9, Areawide Resource Protection Standard A.1.g: The means of preserving open space in accordance with this standard (e.g., conservation, deed restrictions, etc.), which achieves protection of the areas sensitive resources in perpetuity, should be articulated by this Policy. This standard, as well as others within the update, suggest that open space areas required to protect biological resources, should be in rough proportion to the impacts of the project. Please see our comments regarding the use of such language in part I.C of this letter. One of our concerns is that this policy could be interpreted to mean that quantity of area required to be placed in open space can only be equivalent to the area of footprint of the development located in sensitive habitat areas. Such approach would not adequately compensate for the habitat fragmentation and edge effects associated with the new development. Nor would it account for the overall loss of habitat that would be directly impacted by the development.

Page 7-9, Areawide Resource Protection Standard A.1.h: The Final EIR should analyze the effectiveness of existing CZLUO clustering provisions with respect to the protection of sensitive habitats before this method is incorporated into the Update.

Page 7-9, Areawide Resource Protection Standard A.2.a.(1): The proposed language implies that Sensitive Resource Areas and Environmentally Sensitive Habitats are only located in areas shown by LCP maps. Please clarify that it is the on the ground resources which define the extent of such areas. This is, in part, resolved by the following paragraph, which requires the protection of oak woodland, coastal strand, coastal sage scrub, dune scrub, and maritime chaparral habitats must be protected whether or not identified as a Sensitive Resource Area combining designation. We suggest adding "or any other area that meets the definition of an environmentally sensitive habitat area as defined by Section 30107.5 of the Coastal Act".

Page 7-13, Multi-Family and Planned Developments: What are the maximum densities/intensities of development? If established by ordinance, please provide reference.

Page 7-14, Common Open Space Requirements: We are concerned with the proposal to allow the use of sensitive habitat areas as common open space areas, as the purpose of the common open space (i.e. passive and active recreational use by residents of the development) may conflict with the protection of habitat values. Clearly such areas should be protected as open space pursuant to the Coastal Act and other LCP requirements. They should not, however, be considered as an area that is available to satisfy the recreational needs of new development.

Page 7-21, Areawide Drainage Standards: These standards should incorporate more specific requirements for achieving water quality and aquatic habitat protection objectives. These should include: the provision of specific construction and post construction Best Management Practices appropriate to the type of construction and land use(s) being proposed; the maintenance of natural drainage patterns, quantities, velocity, and quality, to the greatest degree feasible; and, minimum capacity standards for drainage facilities and selected BMP's.

Page 7-23 through 7-24, Archaeological and Historic Resources: The proposed standards should be reviewed for conformance with Coastal Act Section 30244. They do not appear to incorporate coordination with the State Historic Preservation Officer, as required by this section of the Coastal Act. Nor do they appear to involve consultations with the Chumash Tribe, who seem to have important interests regarding the protection of archaeological resources in the area. We are also concerned that proposed Standard 1 for Historic Resources limit the protection of such resources to those that are specifically identified by the Area Plan. Protection should be afforded to other structures that may be determined to be Historic subsequent to certification of the Plan. Similarly, we are concerned with the provisions of this standard, which restrict its application to the Historic structure itself, and an area within 200 feet of the structure. Protection should also be afforded to any other structure or facility on the site that is integrally linked to the historic structure and played a role in the historic use of the site. Finally, we are concerned that proposed Standard 2 for Historic structure provides too much discretion to the Planning Director in determining the appropriate method of preservation. While we agree with the intent of providing flexible means of achieving effective protection, it is necessary that all such alternatives be coordinated with the State Historic Preservation Officer.

Page 7-29, Rural Area Circulation Standard 3: We support this standard, which requires new road alignments to minimize terrain disturbance and vegetation removal. We suggest that this standard further require that new development be sited and designed in a manner that carries out this objective, in balance with the need to avoid the conversion of agricultural soils, impacts to sensitive habitats, and disruptions to scenic views.

Page 7-30, Lot Line Adjustment Standards for Rural Areas: We concur with standard 1.b.(2), which allows lot line adjustments to create parcels that are smaller than the minimum lot size specified by the CZLUO in order to protect sensitive and visual resources as well as agricultural viability. As noted at the top of this page, only legal lots can be adjusted. To confirm that a lot has been legally created, we request that any certificate of compliance or parcel map recorded on or after 1973 be referred to Commission staff for confirmation that Coastal Development Permit requirements associated with the recordation of the lot(s) have been satisfied. Finally, to avoid the suburbanization of agricultural lands, and the conversion of agricultural lands to non agricultural uses, we recommend that the Update include specific standards to address parcels that are non-conforming lots (i.e., existing lots that do not meet minimum parcel size standards). To the degree feasible, the Update should require consolidation of these lots with adjacent lots in order to achieve compliance with minimum lot size standards.

Page 7-32 through 7-33, Visual Standards for the Morros Area SRA: Exemptions to visual protection standards for new development should only be granted when development can be

shown to not be visible form *any public viewpoint*, in addition to the viewpoints identified by part 1.a.(2). Similarly, the prohibition against ridgetop development established by part 1.g. should be applicable to development visible from any public area. More broadly, we would encourage these visual protection standards to be expanded in a manner that requires new structures to not be visible from any public area, by applying design provision, as well as location requirements, to the review process. Similarly, we suggest eliminating the allowance for new development to be located anywhere other than the least visible portion of the site, as suggested by 1.d. (i.e., "where visual impacts are reduced to an insignificant level"), unless necessary to protect sensitive habitats. Standard 1.i. should specifically prohibit land divisions that would create new lots in visually or biologically sensitive areas (please see comment below for additional information regarding biological issues).

Page 7-32 through 7-33, Biological Standards for the Morros Area SRA: In addition to the application requirements established by part 1.b., an assessment of sensitive habitats, and potential impacts to such habitats, should be required as part of the development application. This information is needed to determine project compliance with part 1.c of this standard. With respect to 1.c., development should be designed and located to *avoid* (rather than *minimize*) impacts to important biological resources. Where avoidance is not possible, this standard should prescribe the type and amount of mitigation required to ensure that the biological productivity of the area is preserved.

Page 7-34, Open Space Requirements for the Morros SRA: While we support the intent of the standard to achieve open space protection, we are again concerned about the statement that "the required open space area shall be in rough proportionality to the impacts of the project". (Please see part I.C of this letter.) For example, we are concerned that this might be interpreted in a fashion that limits the open space area to an amount equivalent to the footprint of the development, when, in fact, a much greater area may be warranted in light of the impacts associated with roadway construction, vegetation removal, landform alterations, or other aspects of development. Moreover, a greater open space area may be appropriate to avoid a public nuisance or achieve a legitimate public interest. We are also concerned about the prohibition against allowing for public access in such open space areas, unless desired by the property owner. The allowance of managed public access in such areas, regardless of the property owners desires may be appropriate in instances such as where there may be historic right to such access, or where the project will impact other areas of legitimate public access. We appreciate the identification of the means by which open space preservation requirements can be implemented (e.g., easements, agreements, etc.), but are unclear how participation in a TDC program would satisfy these requirements; please clarify. Also please include language that requires that the required open space to be preserved *in perpetuity.*

Page 7-34 through 7-36, Visual Protection Standards for the Highway One – Cayucos Viewshed: Please see comments regarding page 7-32 through 7-33 (Visual Standards for the Morros Area SRA). In this case, views from the ocean should also be considered and incorporated into this standard. Additional standards should be provided to protect views of the shoreline and ocean available from Highway One and other public areas. Why exempt residential structures of less than 600 feet from the visual protection standards applicable to the area west of Cayucos?

Page 7-39, Estero Marine Terminal: This standard prohibits new uses from being established on the site until the existing use is abandoned. Consideration should be given to exempting new recreational uses from this standard, in order to allow for continuance lateral coastal access and the establishment of a bike path.

Page 7-42, Estero Marine Terminal Abandonment: It should be clarified that the objective of the site restoration and environmental mitigation requirements are to return the site to natural conditions that facilitate its use for agricultural and recreational purposes.

Page 7-44, Recreation Standards for Highway 41 area: Why are uses in this recreation category limited in a manner that excludes general public access and recreational uses?

Page 7-44, Recreation Standards for Montana de Oro State Park: While it may be appropriate to refer to Development Plan D90119D, it should be done in a manner which recognizes that this permit may be amended or superceded by a future Coastal Development Permit. This standard should also acknowledge that any development in the area of Coastal Commission jurisdiction (e.g., areas below the mean high tide line) is subject to the review and approval of the Coastal Commission.

Page 7-45, Standards for New development Seaward of Highway 1 Between the City of Morro Bay and the Cayucos Urban Reserve Line: In should be noted that new development in this area must comply with the Development Standards listed in part 2, *as well as all other applicable LCP requirements.*

Page 7-46, Cayucos Urban Area Standard A: Evidence of adequate public services should be provided at the development review (CDP) stage, rather than, or in addition to, the building permit stage. In the case of water and sewer service, said evidence should identify the specific allocation being granted to the project, and the amount of service remaining available for new development within the service area.

Page 7-46, Cayucos Urban Area Standard C: The allowance of condominium hotels and motels should be prohibited if they would replace or convert an existing transient occupancy use.

Pages 7-54 through 7-55, Table 7-1 (Special Setback Standards): Please refer to part 1.c. of this letter regarding coastal hazards.

Page 7-56, GSA Standard 2: This standard, regarding seawall appearance, should be expanded to address overall seawall design. Among the additional requirements that should be incorporated into this standard, seawalls should be designed to avoid any encroachment onto public beach area or sensitive habitat. This standard should also reference the requirements of CZLUO Section 23.05.090.

Page 7-63 through 7-67, Mixed Use Development in the Cayucos Commercial Retail Area: Please refer to our overall comments regarding priorities for visitor-serving uses in part I.C. of this letter. General Standard c. should clarify that residential parking requirements must be satisfied *on-site.*

Page 7-67, Standards for the Locarno Commercial Retail Area: Coastal access and recreational uses available to the general public should be included as a principally permitted use.

Page 7-70, Mixed Use South of Ocean Avenue: Please see comments regarding pages 7-63 through 7-67.

Page 7-75, Residential Use on the 10-acre Parcel North of the Locarno Tract: The allowance of residential use on this site, which is designated for recreation, should be re-evaluated based on the lack of adequate water supplies (please see part I.B. of this letter), and the need for additional parks. Standards for residential development on this site should be expanded to address visual impacts from public areas, and any habitat values that may be present on the site.

Page 7-77, Standards for Residential Multi-Family development in Cayucos: Do the height standards effectively protect views of the shoreline and ocean available from Highway One and Ocean Avenue, particularly in the Locarno Tract? Will the standard allowing for the waiver of curb, gutter and sidewalk requirements interfere with the provision of lateral coastal access?

Page 7-94, Los Osos Urban Area Standards A and B: These standards should state that evidence of available water, and compliance with RWQCB requirements for on-site wastewater disposal, must be provided at the time of coastal development permit application.

Page 7-96, Figure 7-37 (Los Osos Neighborhoods): Please identify the location of the USL on this map.

Page 7-97, Extension of Community Services Beyond the Los Osos USL: Given the current lack of available water and sewer service, no extensions of such services should be provided outside of the USL. Please see part I.B. of this letter.

Page 7-100, Extension of 3rd street and South Bay Boulevards: The extension of 3rd street should be prohibited if it can not be designed to avoid the loss of wetland habitats. This standard should specify performance standards for the water quality protection measures that must be provided by the project, such as the minimum performance and capacities of construction and post-construction BMP's. With respect to the proposed South Bay Boulevard extension, we can not agree that it is appropriate to include this project in the Update until it can be shown that road construction and the development the road will serve will effectively protect sensitive habitats.

Page 7-100, Street Trees: In addition to the characteristics required by part d of this standard, trees should be non-invasive.

Page 7-101, Extension of Stub Streets: This should only be permitted where no impacts to sensitive habitats will occur.

Page 7-101, Bayfront Fences: In addition to the standards provided by G.2., fences should not interfere with the movement/migration of native wildlife.

Pages 7-108 & 7-109, Figure 7-43 (Residential Development Potential New Land Divisions): It is not appropriate to suggest that it is feasible to subdivide parcels in Los Osos until evidence of

adequate and sustainable water and wastewater treatment service is available. In the mean time, all subdivisions should be prohibited.

Page 7-112, Los Osos Coastal Access and Recreation Standards: Please refer to our concerns about the use of "rough proportionality" and "nexus" stated in part I.C of this letter. Amongst our other concerns, the proposed language could lead to the dismissal of access requirements on the basis that an existing access route would not being impacted by the development. Such an approach does not take into consideration the impacts that the development may place on other access and recreation facilities elsewhere in the region, through the increase in use that would be generated by the new development. Given the potential population increases posed by the Update, as well as the identified lack of public parks and recreation, the cumulative impact of new development may have significant impacts on existing public access and recreation opportunities, and therefore warrant requirements for access and recreation improvements.

Page 7-114, Land Divisions in Morro Bay SRA: No new parcels within sensitive resource areas should be allowed.

Page 7-114 & 7-115, Wetland Setbacks: Please show on a map the specific areas subject to the wetland setback requirements identified by Table 7-4. The final EIR should evaluate the adequacy of these setbacks to effectively protect wetland habitats.

Page 7-116, Setbacks from Coastal Strand, Coastal Sage Scrub, Dune Scrub, and Maritime Chaparral: This standard only addresses setbacks for subdivisions, which should be prohibited within SRA's. It does not, but should, specify setback requirements for new development other than subdivisions proposed within or adjacent to such habitats. These setbacks should be reviewed for adequacy by the Final EIR.

Pages 7-117 and 7-124, Mixed Use Development in Los Osos: Please see part I.C. of this letter regarding priorities for visitor-serving development.

Page 7-126, Los Osos Commercial Retail design Guidelines: We agree that where feasible and consistent with natural resource protection, new development should provide access to the Bay. This should be required as a policy, rather than guideline. In order to protect natural resources, the policy should require interpretive facilities and monitoring and maintenance plans to accompany new accessways to the bay.

Page 7-130, South Bay Blvd. TDC Area: Please see our comments regarding the proposed TDC Programs in part I.A. of this letter.

Page 7-133, Sweet Springs Preserve: Please refer to our concerns regarding the proposed extension of 3rd Street. This should not be identified as an allowable use until it can be shown that it will not involve adverse impacts to wetland habitats.

Page 7-134, Cuesta Inlet: We question the appropriateness of allowing for residential development in this location given its designation of Recreation, the lack of adequate public services (including parks), unresolved issues regarding public trust lands, and potential impacts to sensitive habitats.

Page 7-135, Sweet Springs: Again, residential development in this Recreation area must be questioned. Are there sensitive habitat values or other resource constraints that should be considered before the area of West of 4th Street is committed to residential use? On what basis was a credit of 1 dwelling unit per acre arrived at for the other areas? What is the maximum density of development allowed within the West of 4th Street area, and will this intensity of development pose adverse impacts on adjacent sensitive resource areas?

Pages 7-137 through 7-138, TDC program for the Southeastern Hillsides of Los Osos: Please refer to our overall concerns about the proposed TDC programs in part I.A. of this letter.

Page 7-140, West of Pecho – Western Fringe Area of Los Osos: Given this area's designation as a sensitive resource area, and its visual prominence, as well as the lack of public services, the allowable development type (hotels) and extent (maximum of 120 units and 10 acres of site disturbance) appears excessive. Public accessways and passive recreation uses should be allowed, with the understanding that they need to be sited, designed, and managed to protect natural and scenic resources. Specific resource protection standards and mitigation requirements for development of this site should be provided.

Page 7-141, Los Osos Creekside Area Density Bonus: No land divisions or density bonuses should be allowed until adequate public services to accommodate such development have been secured.

Page 7-141, Los Osos Creekside Area Setbacks: What constitutes "the *most significant* areas of habitat ..." for which a 100 foot setback must be provided? The Final EIR should evaluate the adequacy of this setback.

Page 7-144, Morro Shores Mixed Use Area: Standards for any development in this area (i.e., not just pursuant to a Specific Plan) should ensure the effective protection of sensitive habitats, and should not preclude the proposed use of the site for wastewater treatment. If a proposed development involves potential impacts to threatened or endangered species, evidence of compliance with state and federal Endangered Species Acts should be provided at the time of Coastal Development Permit application (this should apply throughout the Planning Area).

Page 7-154 through 7-156, TDC Program for Southeastern Hillsides Area of Los Osos: Please see our overall comments regarding the proposed TDC Programs in part I.A of this letter.

Page 7-156 through 7-157, Standards for Southwestern Hillsides – Cabrillo Estates Area of Los Osos: These standards should emphasize the need for new development to protect sensitive habitats and visual resources, particularly in the upper hillside area. Given these constraints, and lack of public service capacities, no new parcels should be created. Public access connections through this area, that are sensitively designed and appropriately managed, should be listed as an allowable use. Driveways should be allowed to be constructed of pervious materials to maintain natural drainage flows and facilitate groundwater recharge. Minimum setbacks from sensitive habitat areas, which provide for adequate fire clearance without necessitating the removal of native vegetation, should be specified by these standards and analyzed by the Final EIR. Similarly, height limits should be analyzed for impacts to significant visual resources.

Page, 7-158 through 7-159, Standards for the West of Pecho Sunset Area of Los Osos: Again, standards for this area should emphasize protection of habitat and visual resources, and prohibit the creation of new lots. Height limits should also protect views from the beach and ocean; additional design standards should be provided to achieve this. No development should be permitted until an adequate and environmentally sustainable source of water becomes available, and the public service capacities needed to accommodate Coastal Act priority uses has been set aside (this comment applies throughout the planning area).

Pages 7-162 through 7-165 and pages 7-173 through 7-174, South Bay Blvd. Area and Southwestern Hillsides Area TDC Programs: Please refer to our overall concerns regarding the proposed TDC programs in part I.A of this letter.

B. Draft EIR Text

Page 5.1-1, Regulatory Setting for Transportation & Circulation Impacts: Please identify Coastal Act Section 30252 as part of the "regulatory setting", as the Update must conform to this and other sections of the Chapter 3 Policies of the Coastal Act. The Update's consistency with this Section should be analyzed by the Final EIR. Where inconsistencies are identified, mitigation and project alternatives that achieve Coastal Act conformance should be identified. (This applies to subsequent comments regarding the regulatory setting.)

Page 5.1-18, Impact TC-1: The DEIR identifies that upon buildout of the Area Plan, segments of South Bay Boulevard, which serve commuters and recreational traffic, are projected to operate at LOS F. An analysis of how this diminished service will impact coastal access and recreation opportunities should be provided by the Final EIR. As noted in our above comments regarding the update, we have significant concerns regarding the proposed mitigation measure of widening South Bay Boulevard, which poses impacts to wetland habitats. This too should be further analyzed by the Final EIR. Project alternatives that would reduce impacts on important recreational corridors, and eliminate the need for road expansions that would adversely impact sensitive habitats, should be identified by the EIR.

Page 5.4-16, Regulatory Setting for Water Resource Impacts: Please identify and analyze the Updates conformance to Coastal Act Sections 30231, 30241(e), 30250(a), 30254, and 30255.

Pages 5.4-17 through 5.4-24, Water Resource Impacts and Mitigation Measures: The DEIR states that the Update would increase water demands in the planning area, for which there are not adequate water resources to serve such development. This would be a significant and unavoidable impact within the communities of Los Osos and Cayucos. We agree with Mitigation Measure WR-G1, which prohibits development under the Area Plan until adequate and dependable water supplies have been secured. This mitigation measure should also identify that once such water supplies have been identified and secured, they will be subject to an overall allocation program that reserved an amount of water necessary to accommodate Coastal Act priority uses (e.g., coastal dependent uses, coastal act access and recreation facilities, and visitor-serving developments) prior to being made available for other uses such as residential and general commercial and industrial. Given the significant unknowns regarding the extent of development that can be sustained by available water supplies, we do not think that it is

appropriate for the Update to include any increases in buildout potential within the planning area. Moreover, we believe that it is critical for the Final EIR to identify alternative changes to the Area Plan that balance buildout with currently available water supplies. Since this is not possible in Los Osos, where existing withdrawals already exceed the safe yield of the groundwater basin, an alternative that will avoid any additional strains upon this resource, should be identified by the EIR and pursued by the Update. In addition to prohibiting new development for which a sustainable source of water is not available, this should include implementation of Mitigation Measures WR-G2 through WR-G5.

Page 5.5-2, Regulatory Setting for Wastewater Impacts: Please identify Coastal Act Sections 30231, 30250, 30254, and 30255 and evaluate the Update's consistency with these requirements.

Pages 5.5-7 through 5.5-9, Wastewater Impacts in Los Osos: We found the DEIR to be lacking the necessary information to address the critical problem of wastewater disposal in the Los Osos area, and the additional impacts to marine resources, water quality, recreation opportunities, and coastal dependent uses posed by the additional wastewater that will be generated by new development. We are concerned about the DEIR's assumption that wastewater issues will be effectively resolved by a community wastewater system, and do not agree that the Update will have a "beneficial impact" on wastewater. First, it can not be assured that the eventual sewer system will have the capacity to serve the increased buildout proposed under the area plan. The EIR should address this capacity issue. Second, the use of septic systems in the area outside of the currently proposed wastewater treatment service area would increase under the area plan, thereby posing adverse impacts to water quality that could diminish improvements realized to through the construction of a wastewater treatment system. The Draft EIR states, on page 5.5-12 that this is an insignificant impact because the wastewater treatment system is supposed to increase water quality. The DEIR does not, however, provide any data or evidence in support of this conclusion. Nor does the DEIR address the potential that development outside the prohibition area may occur well ahead of the establishment of a wastewater treatment system. The Final EIR should address these issues, and provide a more detailed evaluation of the potential impacts to water quality, aquatic habitats, and associated uses posed by the additional wastewater that will be generated outside the proposed sewer service area. (Please also refer to part I.B of this letter.)

Page 5.6-8, Regulatory Setting for Drainage and Water Quality Impacts: Please cite, and analyze the Updated Area Plan's consistency with, Coastal Act Sections 30220, 30230, 30231, 30232, and 30253.

Pages 5.6-11 through 5.6-16, Drainage and Water Quality Impacts and Mitigation Measures: Please refer to our previous comments in Part I.C of this letter, and those regarding pages 3-52, 4-5, 5-6, and 7-21 of the Update. As suggested by the comments, the Update should provide more detailed standards to ensure the effective protection of water quality and the adequate handling and treatment of drainage. Given the proposed standard's lack of specificity, and the absence of a detailed analysis of the effectiveness of these standards or other County requirements, we are not sure how the DEIR has concluded that development accommodated by the Update will not have a significant impact on drainage and water quality. The Final EIR

should evaluate the proposed standards developed in response to our request for more detailed standards, and suggest improvements or alternatives to these standards that would better achieve water quality protection and enhancement objectives.

Page 5.8-21, Regulatory Setting for Biological Resource Impacts: Please include Coastal Act Sections 30230, 30231, and 30240 in this discussion, and analyze whether the Update complies with these standards.

Pages 5.8-26 through 5.8-34, Impacts BR-1 through BR-5 and Community Specific Biological Impacts: It is acknowledged that increased urbanization and population may result in the direct removal of habitats, indirect effects on sensitive biological resources, and adverse impacts to aquatic habitats and species. In some cases, the DEIR states that the significance of these impacts is dependent upon site-specific assessments. In other cases, the DEIR states the impacts are significant and unavoidable. It is necessary that the Update provide standards that new development will not significantly disrupt sensitive habitats, either individually or cumulatively, to the greatest degree feasible. The EIR should provide a more detailed assessment of whether the Update meets this requirement, rather than relying on future project specific reviews. If the Update doesn't meet this requirement, the EIR should identify project alternatives that do. Where impacts can not be avoided, the Update should specify the minimum mitigation requirements necessary to protect the overall biological productivity of the area, and ensure the biological continuance of sensitive species. The EIR should, in turn, analyze the effectiveness of these measures. Please also refer to part I.A of this letter.

Page 5.8-30, last paragraph, and Page 5.8-36, Mitigation Measure BR-13: In addition to prohibiting increased densities of development in sensitive habitats, the EIR should consider a mitigation measure that reduces allowable densities in known sensitive habitat areas.

Page 5.8-34, Mitigation Measure BR-2: The minimum setback of a 100 feet from a wetland or riparian area should not be reduced, but only increased, based upon the recommendations of the required biological evaluation.

Page 5.8-34, Mitigation Measure BR-9: In situations where avoidance of special-status plant habitats can not be achieved, mitigation should ensure that an area of equivalent biological type and productivity is restored and/or protected in perpetuity. This should be required in addition to the other mitigation measures identified for such circumstances.

Page 5.8-36, Mitigation Measure BR-10: Additional means of avoiding erosion and protecting water quality should be required by this measure (please see Section I.A of this letter as well as our comments regarding pages 5.6-11 through 5.6-16 of the DEIR).

Page 5.9.1.2, Regulatory Setting for Agricultural Resource Impacts: Please provide an analysis of the Update's conformance with the referenced Coastal Act Policies for all areas that will be converted from an agricultural land use designation. Please also refer to our comments on pages 4-7 and 7-30 of the Update regarding development on, and adjustment of, non-conforming agricultural lots.

Page 5.10-2, Primary Viewing Corridors: Please identify views from public beaches, Morro Bay, and the Pacific Ocean as Primary Viewing Corridors, and analyze the impact on such views posed by new development that will be accommodated by the Update.

Page 5.10-10, Impact AES-2: How was the allowable extent of development on the subject parcel(s) determined?

Page 5.10-12, Impact AES-3: Please explain how the DEIR concluded that the proposed change in the land use designation for this area will not result in any change to the type or intensity of development allowed. While we understand that there are other coastal standards and policies that would be applicable to the area, it seems that the changes in land use category would expand upon the kind and amount of development that could be pursued.

Pages 5.10-8 through 5.10-20, Aesthetic Impacts and Mitigation Measures: As detailed by the DEIR, the Update will have significant adverse impacts on the visual quality of the area, even without considering views from the bay and ocean. Mitigation measures rely upon exiting standards, project-specific reviews, and new SRA standards provided by the Update. The DEIR states on page 5.10-12, however, that reliance on these measures would not mitigate all the potential adverse impacts, and identifies that many of the residual visual impacts will be significant, including within all of the Los Osos impact areas. Additional standards that could avoid and minimize such impacts, specific to those areas on which new development will be accommodated in visually prominent areas, should be identified by the Update and evaluated by the EIR. These include, but are not limited to, additional siting, design, and lighting standards, as well as reductions in the allowable intensity of development. The Final EIR should also evaluate, and suggest mitigation measures for, the visual impacts posed by increased densities of development allowed by the proposed TDC Programs.

Pages 7-1 through 7-52, Alternatives: Please provide a more detailed description of each alternative, highlighting the *specific* differences with the draft plan. For example, please identify the alternative standards and or land use designations between that result in the different buildout potentials shown by Table 7-1 and described by Section 7.3.1. This is generally done in Section 7.4 for the Los Osos Focus Areas; a similar approach should be used for all other areas that will be affected by the Update. Most importantly, the EIR should include an alternative that seeks to balance the extent of buildout with the level of public services (particularly water and sewer) that is currently available, and reduce the amount of development in environmentally and visually sensitive areas to the greatest extent possible. To the degree that the development in such areas can not be avoided, a detailed mitigation program which provides specific measures to ensure that the overall biological productivity and visual quality of the area is preserved, should be identified.

C. Requested Amendments Document

As detailed in our comments above, we do not believe that any increase in development densities within or adjacent to areas that contain sensitive habitats, or prior to the demonstration of adequate and sustainable public service capacities, complies with Coastal Act requirements. Many of the requested amendments raise these same issues, as discussed below.

Kesner

Requested land use designation change (RS/RMF to RSF) will increase allowable number of dwelling units (from 2 to 9), water demand (from 0.8 to 2.45 acre-feet/year), and sewage generation (from 400 to 1,800 gallons/day) within the Los Osos septic system prohibition boundary. Such a change can not be found to be consistent with Coastal Act Section 30250(a) until evidence of adequate water supplies and sewer treatment capacities can be provided.

Miles

Request to establish community-wide (Cayucos) planning area standard that specifies condominium-hotels or motels where conventional hotels or motels are allowable. Please refer to our comments regarding *Priorities for Visitor-Serving Uses* in part I.C of this letter.

Morro Bay & Land Co.

Requested inclusion into USL and additional planning area standard will increase number of dwelling units (from 2 to 17), water demand (from 1.2o to 4.62 acre-feet/year), and sewage generation (from 400 to 3,400 gallons/day) within the Los Osos septic system prohibition area. In addition to lacking the necessary public services (water and sewer) to accommodate this proposal, we have significant concerns regarding the impacts of this change on wetlands and habitat for the Morro shoulderband snail.

Morro Shores Co.

In this case, the requested land use change (RMF to CS and RMF to RSF) will decrease allowable number of parcels (from 396 to 127), water demand (from 79.2 to 45.95 acre-feet/year), and sewage generation (from 79,200 to 38,983 gallons per day). Nevertheless, this proposal involves potential impacts to sensitive habitats that will need to be addressed in the Update process. We also recommend that the standards for this site ensure that potential construction of the needed wastewater treatment plant not be precluded by proposals for new development.

Van Beurden

This request to change land use designation from O/P to CR would not significantly increase water demand or sewage generation. It would, however, increase traffic volume, and involve the extension of South Bay Boulevard. Please see our concerns regarding impacts to sensitive habitats posed by the extension of South Bay Boulevard, as well as our comments regarding the impact to coastal access and recreation posed by increased traffic on South Bay Boulevard. We are also concerned about the impact of such development on Oak trees, which may adversely affect visual and habitat resources. These impacts should be addressed in more detail by the EIR.

Morro Palisades Co.

Request to change almost 112 acres of RSF to RS will decrease allowable number of parcels and dwelling units, water demand, and sewage generation. Nevertheless, the site is located within discharge prohibition area, where there is inadequate capacity to support even this reduced amount of potential development. The proposal also involves an extension of the Urban Services

Line, which is inappropriate until public service capacities necessary to accommodate development within the existing urban areas is accounted for. Finally, this area contains sensitive habitats that must be protected. Yet the proposed amendments would delete existing area plan language regarding site selection, capacity of services, and protection of sensitive plant species. While the proposed TDC program for this site is intended to provide for habitat protection, we have some significant concerns regarding the effectiveness of such programs, as detailed in part I.A of this letter. In addition, due to the voluntary nature of such programs, requirements for habitat protection in the case of non-TDC development must be retained.

Estero Bay Properties

We agree with the staff recommendation that the requested change from AG to RSF should not be included in the Update.

Nakamura Family

Our concerns regarding inadequate public service capacities, and impacts to sensitive habitats, also applies to this request, which would double the amount of allowable dwelling units (from 8 to 16) and increase water demand and sewage generation. While it is stated on Page 9-5 that development could be sited to avoid sensitive habitats, including those supporting Morro manzanita and Indian Knob mountainbalm, we are concerned about the fragmentation of habitat, increased erosion, and a greater potential to spread invasive, non-native plants identified on page 9-20.

D. Conclusion

Thank you for the opportunity to comment on both the Update and the DEIR. As you can see, we have significant concerns regarding the impact of the Update on coastal resources, and its conformance with Coastal Act standards. Most notably, we believe it essential that the Update limit buildout within the Estero planning area to a degree that can be supported by available public services, and that will sustain the biological and visual qualities of the coastal environment. The Update should also include additional and revised standards to ensure that new development will effectively protect coastal access and recreation opportunities, preserve agricultural resources, maintain coastal water quality, and avoid coastal hazards. Towards these ends, we request that greater attention to, and analysis of, the Coastal Act standards with which the Update must conform, be provided by subsequent drafts of the Update and the Final EIR. We hope that our comments and questions will assist the County in addressing these important issues.

Sincerely,

Charles Lester
District Manager
Central Coast District Office

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

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TO: CAYUCOS CITIZENS ADVISORY COUNCIL
LOS OSOS COMMUNITY ADVISORY COUNCIL
CALIFORNIA COASTAL COMMISSION STAFF
INTERESTED PERSONS

FROM: MIKE WULKAN, PROJECT MANAGER, ESTERO AREA PLAN UPDATE

SUBJECT: ESTERO AREA PLAN UPDATE: PROPOSED SOLUTIONS TO ISSUES RAISED BY COASTAL COMMISSION STAFF

Attached for your review are proposals recommended by the Cayucos Citizens Advisory Council and the Los Osos Community Advisory Council that respond to concerns about the draft Estero Area Plan and EIR that were detailed in a letter from the California Coastal Commission staff to the Department of Planning and Building dated February 25, 2000. These proposals, which include many of the Coastal Commission staff's suggestions, will form the basis of a revised draft Estero Area Plan and EIR.

The proposals for Cayucos and Los Osos each consist of two tables that are enclosed. One table deals with more general concerns such as public services and environmentally sensitive habitat, and the other deals with comments on specific sections of the draft Estero Area Plan and EIR referenced in the Coastal staff's February 25 letter. Where applicable, each of the Coastal staff's concerns is identified by page and paragraph in the February 25 letter, or by the page and paragraph in the draft Estero Area Plan. For each concern, a proposed solution is described.

The next major step in the Estero Area Plan update process is for county staff to prepare a revised draft plan that includes the enclosed recommendations, as well as revisions previously recommended by the advisory councils, as described in *Draft Revision Package #1* and *Draft Revision Package #2*. We expect that a revised EIR will also be prepared. We estimate that a revised draft plan and EIR will be completed during the spring of next year, after which they will be distributed for review by the advisory councils and the public. Following public review, the Estero update will be considered by the County Planning Commission and Board of Supervisors at public hearings.

If there are any questions, please call me at 781-5608, or contact me by E-Mail at mwulkan@co.slo.ca.us.

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600 • 1-800-834-4636
EMAIL: ipcoplng@slonet.org • FAX: (805)781-1242 • WEBSITE: http://www.slonet.org/v/ipcoplng

LOCAC-recommended Solutions to Coastal Commission Staff's General Comments: Los Osos (9/28/2000)

Coastal Commission Comment	Proposed Solution
Public Services: Prohibit all land divisions, new development or increases in allowable density until evidence of sustainable water supply and wastewater treatment system (Los Osos) is provided. Require evidence at time of permit application	**Add New Areawide Policy:** Monitor water demand and sewage flows through the RMS system to assure that new development can be accommodated by water supplies and sewer systems. **Add New Los Osos Policy:** Adequate public or private service capacities shall be available to serve proposed development. In addition, adequate water supply and community sewer capacity shall be available before approval of new land divisions using those services **Add New/Revise Communitywide Planning Area Standards:** 1. Prior to approval of applications for land divisions (other than condominium conversions), require a finding that there is a sufficient water supply and community sewer capacity (as applicable) to serve development. This includes existing development (at current rates of water use and occupancy), plus the proposed land division, plus buildout under this plan (as adjusted to account for elimination of development potential due to construction and mitigation of the community sewer project) of all vacant parcels in residential and non-residential land use categories within the urban services line. The finding shall be based on a groundwater study for the Los Osos groundwater basin. The study is to identify the sustainable yield of the groundwater basin without seawater intrusion, account for the groundwater recharge to occur from the community sewer project and be approved by the Board of Supervisors. 2. Service Availability: Land Use and Building Permit Application Content. a. Land Use Permits. All land use permit applications for development shall be accompanied by a letter from the applicable water purveyor and from the Los Osos Community Services District, when applicable, stating their intent to serve the proposed project. b. Building Permits. All applications for building permit approval are to be accompanied by a letter or other verification from the applicable water purveyor, the Los Osos Community Services for community sewer service and the South Bay Fire Department indicating that the proposed project has received water service approvals, a sewer connection where applicable, and fire clearance. c. Delete standard 2a, page 7-97 of Draft Plan regarding extension of community services beyond USL for existing parcels d. Revise standard 2b, page 7-97 of Draft Plan by adding requirement for finding in preceding item 1

Coastal Commission Staff Comment	Proposed Solution
Public Services: Substantially reduce buildout consistent with sustainable water supply; do not increase densities until evidence of adequate water and sewage treatment capacities provided Cannot assume that future sewer system will have capacity to serve buildout-- more detailed evaluations needed	-Reduce overall buildout by reducing development potential in environmentally sensitive habitat; buildout reduction from Draft Plan (includes changes in Rev. Package #1; assumes purchase of Morro Palisades, 15.6-acre Powell)= -881 d.u.s; Total Buildout=21,506 -Retain proposal to include Sea Horse Lane in USL and increase development potential in existing plan by about 8 units; -If upper and lower Broderson sites used for sewage disposal/purchased for mitigation for sewer, buildout would be further reduced by 14 units; -Retain maximum RMF density of 26 units per acre to preserve opportunities for senior, affordable housing; -If maximum RMF density reduced from 26 to 15 units/acre (excluding Morro Shores Mixed-use Area, buildout would be further reduced by 166 units -If 15 unit/acre density applied to Morro Shores Mixed-use area (assuming 13.7 acres of medium-to-high density residential), buildout could be further reduced by 130 units **-Add new land use programs:** 1. If community sewer facilities are built on the Morro Shores Mixed Use Area, and/or if mitigation for sewer project results in the acquisition and elimination of development potential on certain properties, the buildout of the community under this plan should be adjusted accordingly through a general plan amendment. For example, if development potential on the upper and lower Broderson sites is eliminated, then residential buildout would be reduced by an additional 14 units (compared to total buildout above)

Coastal Commission Staff Comment	Proposed Solution
Public Services: Substantially reduce buildout consistent with sustainable water supply; do not increase densities until evidence of adequate water and sewage treatment capacities provided Cannot assume that future sewer system will have capacity to serve buildout-- more detailed evaluations needed	2. After approval of construction of a community sewer project or after the Board of Supervisors approves a groundwater study for the Los Osos groundwater basin that identifies the sustainable yield of the groundwater basin without seawater intrusion and accounts for groundwater recharge from the community sewer project: a) Re-evaluate location of USL, maximum density in RMF category and other density changes, and adequacy of water supply and sewer capacity compared to buildout under this plan. b) Initiate general plan amendments that propose changes to buildout/location of USL so that development can be accommodated by the capacity of the community sewer project and by the sustainable yield of the groundwater basin without seawater intrusion. 3. After approval of construction of a community sewer project, compare sewer capacity to buildout, and initiate GPAs to further reduce buildout to match sewer capacity 4. If a community sewer project is not operational by 2005, initiate GPAs to reduce development potential within the URL to a level that can be accommodated through use of individual, on-site or other septic systems, including revising land use categories and standards for the Morro Shores Mixed Use Area

Coastal Commission Staff Comment	Proposed Solution
Public Services: Do not expand USL until adequate public service capacities	-The proposed expansion of the USL to include the Monarch Grove tract reflects existing development within current service capacities -Proposed expansions of the USL would not increase density (except for Western Fringe and Sea Horse Lane) due to proposed substantial density reductions on environmentally sensitive habitat, but would be beneficial by enabling sewer instead of septic adjacent to bay and clustering on environmentally sensitive habitat -Continue to recommend expansion of USL to include Sea Horse Lane
Public Services: Require reservation of public service capacities to accommodate recreation and other Coastal Act priority uses	-Defer this item until February 2001, when information on sustainable yield of groundwater basin could help determine whether buildout can be accommodated by water and sewer capacities -If buildout can not be accommodated by water and sewer capacities, bring proposal to LOCAC for a program to initiate a general plan amendment that proposes measures to give priority to Coastal Act priority uses (coastal-dependent, agricultural, visitor-serving, and recreational uses). Explore the possibility of amending the Growth Management Ordinance to give priority to Coastal Act priority uses until resources can accommodate buildout
Public Services: Include an EIR alternative in which buildout meets currently available water supplies	Revise EIR project description and analysis to reflect preceding proposed solutions for public services issues
Mixed-Use/Visitor-Serving Uses: Re-evaluate mixed-use in commercial areas (primarily Baywood Commercial Area) for affects on visitor-serving uses	-Mixed-use proposals are on 3rd Street (and Santa Ysabel between 3rd and 4th), not on 2nd, which has the vistor-serving uses; residential to be precluded on 2nd St. -3rd Street largely residential, few retail/office uses, one or so visitor-serving use -Net increase in residential on 3rd Street, Santa Ysabel is 7 units -Demonstrate no net reduction in lodging, visitor-serving opportunities -Draft Plan requires findings regarding effect on visitor-serving opportunities -Mixed-use development can generally help make businesses more viable, which can enhance the viability of visitor-serving businesses

Coastal Commission Staff Comment	Proposed Solution
Environmentally Sensitive Habitat: Prohibit land divisions that would create new lots in sensitive habitat areas or visually prominent locations; pursue consolidation of lots in those areas to the degree feasible	**Add planning areawide standards that:** a. Prohibit land divisions unless all building sites are entirely outside of sensitive areas (as defined in Chapter 7, Section IIIA of the Draft Plan) and the req'd setbacks therefrom, as verified by the required biological report b. Prohibit land divisions where the only feasible building sites are on slopes or ridgetops that result in structures being silhouetted against the sky as viewed from public roads, public beaches, ocean, or Morro Bay estuary c. Prohibit land divisions where access roads or building sites would be located on slopes greater than or equal to 20 percent **Lot consolidation issue needs further discussion with Coastal Commission staff**
Environmentally Sensitive Habitat: In environmentally sensitive habitats, allow only the minimum amount of development necessary to prevent a "taking," such as one unit per parcel	-Rezone SRAs for sensitive habitat to RS as needed, reduce maximum density to 1 residential parcel & unit/5acres (no secondary dwellings), clustered or concentrated, specify densities are a maximum, depending on biological evaluation, consistency with LCP policies, CZLUO, Ch. 7 stnds.; all development to be entirely outside of sensitive areas and setbacks therefrom, except where this standard can't be met, allow 1 unit & minimal site disturbance to allow reasonable building site (may need to define what this is) and provide mitigation; provide exception for sensitive habitat on already subdivided lots in Baywood Park, other areas: mitigation to occur through sewer HCP, offsite mitigation **(Buildout reduction: -774)** -Retain idea of transferring density from upper to lower elevations, but delete TDC receivers in sensitive habitat (southeastern hillsides) -Add policy to coordinate with preparation of HCP for sewer project and assist CSD in implementing HCP
Environmentally Sensitive Habitat: EIR should provide specific analyses, detailed assessments of proposed development/circulation improvements in sensitive habitat, more evaluation of clustering requirements	-Use information from Jones & Stokes mapping and sewer project EIR to do constraints analysis of selected environmentally sensitive areas; use constraints to refine SRA designations, allowable densities accordingly -Include mitigation from sewer project HCP -3rd Street extension eliminated - Delete South Bay Blvd. extension, except preserve right-of-way for potential trail use

Coastal Commission Staff Comment	Proposed Solution
Environmentally Sensitive Habitat: EIR should provide more details, analysis of off-site mitigation, mitigation banking programs	Include a framework for mitigation banking/off-site mitigation programs (see Baywood and Los Osos Conservation Plan)
Environmentally Sensitive Habitat: EIR should provide more details, analysis of TDC program; no receiving sites within sensitive habitat	Delete TDC receiving sites from lower hillside properties in SRA's (Morro Palisades, Broderson); specify that TDCs can not be transferred to sites with sensitive habitat
Visual Impacts: EIR should analyze public views from the Pacific Ocean, public beaches and Morro Bay estuary	Do visual analyses from the Pacific Ocean and the Morro Bay estuary using mathematical method; impaots from public beaches should be covered by analysis from ocean
Watershed Protection: Provide detailed policies, performance standards for watershed protection, including specific Best Management Practices, monitoring provisions for drainage facilities, etc.	Work with Coastal Commission **and CSD to establish new policies and planning area standards** using *Ca. Management Measures for Polluted Runoff* (CAMMPR); *Comprehensive Conservation and Management Plan* (CCMP) for Morro Bay Estuary, Los Osos/Baywood Park Community Drainage Project, address existing development by including applicable actions from CCMP; address construction (before & after) for circulation projects; address agricultural runoff

Coastal Commission Staff Comment	Proposed Solution
Agricultural Land/Rural Areas: Non-conforming Lots: Include specific standards for existing non-conforming lots with regard to minimum parcel size (to avoid suburbanization of agricultural lands, conversion to non-agricultural uses). Require consolidation with adjacent lots to degree feasible. Refer any post-1973 Certificate of Compliance or Parcel Map to Coastal Commission to confirm that Coastal Development Permit was issued CCC Concerns: 1) confirm that proposed development based on prior conditional C of Cs had Coastal Development Permit; if not, re-open and re-evaluate minimum parcel size in AG category 2) find opportunities for lot consolidation	a. **Revise AG planning area standard A for rural area** (pg. 7-38, Draft Plan) in order to apply Coastal Zone Land Use Ordinance Section 23.04.050 to all residential development, which would be considered a supplemental non-agricultural use (standards include no development on prime soils, maximum 2% of site area in non-agricultural uses) (1) Establish a range of areas of disturbance; eg., 2%, but in any case not less than x acres required or more than y acres (2) Assure consistency with Ag & Open Space Element (AGP 18): no new permitting requirements for ag development that is now exempt; standards for projects requiring discretionary approval on irrigated lands or dry farm lands include locating new buildings and structures on a limited portion of total site or other criteria; amend area plans to limit allowable uses on row crop terrain and soils to those that are most directly related to ag production (see planning area standards for the Arroyo Grande, Nipomo and Oso Flaco Valleys) (3) Bring back to LOCAC standard to limit allowable uses on row crop terrain and soils b. **Establish new land use program** to refer to Coastal Commission proposed Lot Line Adjustments and other applications on lots previously issued conditional Certificates of Compliance c. Retain proposed standards for Lot Line Adjustments in Draft Plan d. Retain proposed policy in current draft plan to encourage agricultural speciality uses on small parcels **The concern about Certificates of Compliance needs further discussion with Coastal Commission staff**
Agricultural Land/Rural Areas: Roads/Development: Minimize the length and width of rural roads to avoid conversion of agricultural lands and minimize visual impacts. Site and design development accordingly, and to minimize grading and protect sensitive habitat.	a. **Establish planning areawide standards** that require siting development so length, width and location of roads minimizes grading and visual impacts, while meeting fire protection requirements and not disturbing prime agricultural soils (in AG category) or sensitive habitat b. **Revise planning area standard D2,**(p. 7-20 of Draft Plan) regarding road design and construction (see #74, Rev. Package #1) to protect prime agricultural soils

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
1. 3/1 (letter)	How will the # of TDC credits be determined?	To be determined based on subsequent study of sending and receiving sites
2. 3/1 (letter)	How will increased density in TDC receiving areas affect sensitive habitat, cumulative impacts on biological resources within planning area? Why not designate receiving areas outside of sensitive habitat?	***No impact if TDC receiver sites removed from lower portion of southeastern hillsides and if TDC program specifies that credits can not be transferred to sites with sensitive habitat, as defined in draft plan***; receiving sites are almost entirely existing RSF lots that could be developed with secondary dwellings
3. 3/1 (letter)	Why is TDC program voluntary?	Mandatory TDC program may be illegal
4. 3/3 (letter)	Which areas contain valuable habitat, and where should dev. be available on non-sensitive habitat with off-site mitigation?	SRAs define areas of valuable habitat; HCP to address already-subdivided smaller lots with less valuable, fragmented habitat
5. 3/last (letter)	EIR should evaluate impacts to habitat from 3rd St. and South Bay Blvd. extensions	3rd St. extension deleted; ***delete South Bay Blvd. extension, but preserve right-of-way for potential trail use***
6. 6/2 (letter)	EIR should evaluate how proposed ag land conversions conform with Coastal Act Sections 30241-2	***Can be done in EIR and/or in Planning Commission staff report***
7. 6/3 (letter)	Statements regarding nexus, rough proportionality unnecessary, limiting, could undermine requirements for coastal access, recreation	***Delete various references to nexus, rough proportionality in Chapter 7, and revise language on page 7-5 consistent with Coastal Act 30001.5 (see note following this table)***
8. 6/5 (letter)	EIR should identify more detailed visual protection criteria, address visual impacts of TDC program	Draft plan has detailed standards for Morros, Highway 1-Cayucos viewshed; visual impacts would be significantly reduced by reducing dev. potential, concentrating at lowest elevations; *propose standards to:* ***- prohibit land divisions where only feasible building sites on slopes or ridgetops that result in structures being silhouetted against the sky as viewed from public roads, public beaches, ocean, or Morro Bay estuary*** ***-prohibit land divisions where access roads and building sites would be located on slopes greater than 20 percent***
9. 7/3 (letter)	Include specific standards to achieve setbacks for fire protection without removing vegetation that is biologically or visually sensitive; clarify permit requirements for vegetation clearance for existing dev.	Draft plan has standards to concentrate dev. in least sensitive areas, include buffers to protect sensitive vegetation, locate fuel modification areas to be in addition to required setback from sensitive habitat; ***revise 2b, page 7-10: where possible, design land divisions/development so vegetation/fuel modification areas for fire protection do not disrupt or cause adverse impacts to sensitive features***; per CZLUO, veg. removal in env. sens. habitats requires land use permit, except less than .5 acres in connection with crop production and grazing

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LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
10. 7/last (letter)	EIR should evaluate archaeological protection standards for conformance with Section 30244 of Coastal Act and revise mitigation if needed	The EIR analysis does address impacts to archaeological resources per Section 30244, and considers existing CZLUO standards, draft plan standards, mitigation
11. 1-14	How do goals, policies relate to planning area standards, CZLUO, Coastal Plan Policies?	Goals and policies are implemented by planning area standards, but also function as criteria for development proposals, esp. where no specific standards; they do not supersede CZLUO or Coastal Plan Policies, but are designed to be consistent with and in addition to them
12. 1-15	Combining designation maps should be used for guidance only; environmentally sensitive habitats dependent on on-the-ground resources	Addressed by resource protection standards, pages 7-9 to 7-10; ***clarify on page 1-15 under "combining designations"***
13. 2-17	How can a better jobs/housing balance be achieved?	In Los Osos, jobs/housing balance will improve with reduced res. buildout proposed; more CS could improve situation, but locations very limited, esp. in Cayucos
14. 2-29 A1, B1	How was 2.3% growth rate determined? Are there adequate public services to accommodate this growth? Clarify relationship of Growth Management Ordinance to LCP?	Growth rate consistent with countywide, recommended by communities; implements county General Plan; public service capacities addressed by other policies (see other table of response to Coastal Commission comments); Growth Management Ordinance is Title 26 of County Code (not part of LCP) and applies countywide
15. 3-8,9	Show locations of URL and USL on Figures 3-1, 3-2	***Will do***
16. 3-12, 3-13	Text and table should reflect existing overdraft in Los Osos and state that buildout will exceed available supplies in Los Osos, Cayucos	***Revise text/tables on pages 3-17,3-20 in accordance with proposed public services policies, standards and programs (see table of Proposed Solutions to Coastal Commission Staff's General Comments, public services); compare water supply and demand figures***
17. 3-27	Update 3rd paragraph re. Los Osos sewer system; mention alternative plan proposed by CSD	***Will do***
18. 3-40	Address significant fire hazards caused by development surrounded by natural vegetation; include standards to address impacts of vegetation clearance and to avoid disruption of sensitive habitat, visual resources	Addressed by planning area standards. See preceding Item 9

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LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
19. 3-49	Water management program should be a policy; many provisions should be required of all new development	Development of a water management program doesn't lend itself to being a policy--need follow-up actions to accomplish; conservation measures can't be required of non-county water purveyors
20. 4-7, #5	Update appears to conflict with Policy #5 (protecting groundwater supplies for ag, GPAs for increasing density, expanding urban areas)	Draft plan decreases buildout in Los Osos groundwater basin compared to existing plan (limited amount of agriculture within Los Osos groundwater basin), does not increase density in rural areas or expand URLs; it encourages ag uses and greenbelts and avoids spread of urban dev. into ag areas; water supplies in Los Osos to be addressed (see table of Proposed Solutions to Coastal Commission Staff's General Comments, public services)
21. 4-12 #3	Policy limits uses to recreation and visitor-serving, but Table O allows wide range of uses; how to remedy?	This policy applies to rural areas ; uses are limited by planning area standards
22. 4-14 E	Directing development to Los Osos URL instead of rural areas inappropriate due to inadequate infrastructure	This policy is simply to locate suburban development within the urban area in order to prevent urban sprawl; resource concerns addressed separately
23. 4-29,30,31 official maps	Show USL on Fig. 4-2, consider revising URL/USL, policies A1, A6 to balance water supply and demand	Map will be hard to read; refer instead to other maps that show or will show location of USL; e.g., Figure 3-2, Map M17 following Chapter 7; USL generally encompasses existing developed areas; limited opportunity to scale back (see table of Proposed Solutions to Coastal Commission Staff's General Comments, public services); ***remove lower Morro Palisades from USL (property purchased for conservation)***
24. 4-31 A9	Require that street trees be drought tolerant and non-invasive	Standards on page 7-100 require street tress to be drought tolerant, disease-resistant, compatible with character of area; tree list excludes invasive species

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
25. 4-32,C2	Require that recreational activities within or adjacent to sensitive habitat include monitoring and management measures to protect resources	CZLUO 23.07.170a requires permit applications for projects (includes parks) within or adjacent to Environmentally Sensitive Habitats (draft plan would also apply CZLUO standards to other sensitive areas) to include maximum feasible mitigation and a program to monitor and evaluate their effectiveness
26. 4-33/3,5	Disagree that lower Southeastern Hillsides well suited to residential, hotel, conference center until detailed assessment of habitat, visual constraints; same applies to Western Fringe	***Do more detailed habitat constraints analysis, propose substantial reductions in development potential and site disturbance in Southeastern Hillsides, Western Fringe***
27. 4-36 F1	Note that development must have adequate services, protect habitats and scenic views	Public services policies described elsewhere in plan; ***revise planning area standard 6, page 7-169 to require that location of development and area of disturbance be based on biological evaluation <u>and visual analysis</u> (new) of site and preservation of areas of greatest sensitivity***
27. 4-42	Policies for Morro Shores Mixed Use Area should allow sewer treatment facility and address habitat protection (should be mentioned for all land use categories where applicable)	Sewer treatment facility allowable by planning area standards; ***revise text on page 4-42 to include sewer treatment facility; place Public Facilities symbol on site of Resource Park on Combining Designations Map; revise standards for Morro Shores Mixed Use Area (D6, page 7-145) to require that development be clustered or concentrated away from environmentally sensitive habitat and cultural resources; additional mitigation should be provided offsite through HCP, if needed***; habitat protection standards on Pages 7-8 to 11 apply planning-areawide
29. 4-43 I5	Reduce parking requirements only if alternative methods are adequate, esp. re. parking for coastal access and recreation	Agree; shared parking reduces individual project parking needs
30. 4-44 J5	How will permit process be streamlined in CBD, who will determine whether application qualifies?	See planning area standards on page 7-117: MUP for projects that comply with all CZLUO, planning area standards, guidelines, without need for waiver, exceptions
31. 4-45 J7	Access to recreation along and on the bay should be accompanied by interpretive facilities, resource monitoring and management programs to protect habitat, water quality	***Revise Chapter 7 standard for Coastal Access and Recreation in Los Osos (Combining Designation A): In connection with new publicly-developed coastal access and recreation to and along the bay, require resource monitoring, management and provision of interpretive facilities at points of attraction, consistent with a coastal access plan to be developed, and consistent with CZLUO 23.04.420h; also revise Chapter 8 accordingly***
32. 4-46 J10	Proposed policy to create design plan is more of a program; until design plan done, provide more specific design standards	***Consolidate with Program C2 on page 4-54***; design concepts addressed by design guidelines on page 7-126
33. 4-50	Public Facility heading should be deleted	***Delete***

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/282000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
34. 4-62 E, F	Identify location of all proposed parks on Land Use Maps; EIR should evaluate any potential impacts to sensitive habitat	***Delete park symbol on lower Morro Palisades property due to habitat concerns; revise F1j, page 4-63 by deleting last sentence; EIR should address potential impacts to habitat of proposed park at Cuesta Inlet***; proposed parks shown on combining designation maps, end of Ch. 7 where location is more defined
35. 5-9 - 5-11	Are provisions under "Existing Deficiencies" and "Future Needs" policies? Will new development be required to provide needed improvements?	"Existing Deficiencies" and "Future Needs" are not policies; new development to comply with policies & improvements in Ch. 5--the Circulation Element--and standards in Ch.7; circulation fees to also fund improvements
36. 5-11 B5	Consider abandoning rights of way (eg. paper streets accessing potential development on sensitive habitat) to preclude vehicular access, while allowing other public access, if appropriately managed	Can't abandon rights of way needed for access to property; proposed policy is to preserve rights of way and offers of dedication to preserve public access (doesn't have to be vehicular) to bayfront and public recreation areas (coastal access), and to complete circulation system
37. 5-16, 5-17 S.B Blvd. 3rd St.	Significant concerns re. impacts to wetlands of S.B. Blvd. widening in rural area, S.B. Blvd. extension, 3rd St. extension; on what basis determined necessary? prescribe method to mitigate for any wetland impacts	3rd Street extension deleted; ***delete South Bay Blvd. extension, except preserve right-of-way for potential trail use***; recommended road improvements are per *South Bay Circulation Study;* standard D2 requires protecting sensitive areas to max. extent feasible, minimizing vegetation removal, planting graded slopes with native vegetation; additional mitigation would be determined through environmental review
38. 5-24 3	Identify importance of managing, monitoring, maintaining trails, trail uses to protect sensitive habitat	***Include language in 3, Equestrian/Hiking Trails; in particular, design trails to protect creek beds from equestrian use during low flow periods***
39. 5-24 D	Identify proposed location of park-and-ride lot	***Include language regarding existing park-and-ride at El Morro Church of the Nazarene***; other locations not specified
40. 5-36 D4	Incorrect reference to Fig. 5-6; Figure 5-6 do not provide adequate room for pedestrians, bicyclists	Reference corrected in *Revision Package #1*; 13' parking/pedestrian area allows sufficient room; ***revise program to state that 15' owner-maintained landscaping strip would need to be reduced where bicycle lanes/equestrian trails proposed***
41. 5-36 C5	Trails must not cause impacts to any sensitive habitat areas	***Revise accordingly, state that trails should be accompanied by managemen plans and where appropriate, interpretive facilities to prevent adverse impacts***

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
42. 6-5 E	Note that location of sensitive resource areas not dictated by LCP maps, but by actual presence of sensitive resources	***Include statement that SRAs also include areas that may not be mapped, but have sens. features--reference Ch. 7 areawide resource protection standards***
43. 6-8 5	Define coastal strand, coastal sage scrub, dune scrub & maritime chaparral; acknowledge that many patches of such habitat remain within urban area	***Define plant communities using definitions of coastal foredune, central dune scrub, central sage scrub, central maritime chaparral from EIR; state that patches of the latter 3, esp. coastal sage scrub, exist in Los Osos URL***
44. 6-11 A6	Preparation of HCP/NCCP is more of a program than policy; require new development to conform to such a plan/program when in place; need policies that specify minimum requirements for habitat protection, mitigation	***Incorporate policy into program B1 on page 6-25; add policy to participate in efforts to prepare a communitywide HCP for sewer project and assist in its implementation as applicable;*** difficult for county to commit to a plan that hasn't been written; requirements for habitat protection in areawide resource protection standards, including dev. location, site disturbance, mitigation on small lots; A3 calls for protection of contiguous areas of env., but specific mitigation measures depend on proposed project and site
45. 6-13 A7	More of a program than policy; require new development to provide biological monitoring and maintenance coordinated on a regional or subregional basis	***Incorporate policy into programs* B2, page 6-25**; new development is responsible for monitoring of project mitigation--areawide monitoring for cumulative effects needs to be done by county or other entity, not individual developers
46. 6-25 B2	How does habitat monitoring program relate to, coordinated with RMS?	Not part of RMS; ***add task to program: make provisions for recommending changes to policies and procedures for development review, if needed***
47. 6-26 C	Require protection of habitats in C1b; include in SRA	These areas are generally within SRAs and subject to areawide resource protection standards in Ch. 7
48. 6-27 D	Consider listing some items as policies, e.g. monitoring, restoration	***Move 1,2,3b,and 4 to Section IV policies, revise wording accordingly, e.g. "Encourage the State Department of Parks and Recreation...; revise 1 by deleting reference to CCMP (it's been prepared)***
49. 6-29 E3	How will CZLUO be revised for Los Osos TDC program? How has TDC program worked in Lodge Hill? Perfect the CZLUO based on county experience in administering program	CZLUO amendment in *Revision Package #2*; Lodge Hill program successful--not administered by county
50. 6-30 b	Are any TDC receiver sites within sewage "prohibition area"? How will TDC program be coordinated with sewer project?	All receiver sites within prohibition area; TDCs can be sold, but not used until sewer moratorium lifted
51. 7-8 A1b,e	Location and intensity of new development should protect sensitive features adjacent to site also	***Revise A1b and e to reference sensitive features on or adjacent to the site***

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
52. 7-23,24 G,H	Review standards for conformance with Coastal Act 30244; is coordination with State Historic Preservation Officer required per Coastal Act? Consultations with Chumash? Allow for protecting historic resources that may be subsequently identified; protect any structures on site integral to historic structure; too much discretion to Planning Director in determining method of preservation--coordinate with State Historic Preservation Officer	Existing LCP standards certified by CCC under Coastal Act 30244, and draft plan further protects archaeological resources; CZLUO requires site survey by archaeologist knowledgeable in Chumash culture and approved by county; Chumash who have requested notification are notified and involved in process; historic resources identified in the future can be protected through environmental review for discretionary actions, and ultimately, by including them in the Historic designation through a general plan amendment; structures that are integral to historic structure should be included in the H designation; Planning Director would not have too much discretion: findings for protection of resources would still apply as before, but permit level could be reduced from MUP to Plot Plan; ***possibly revise H2 by allowing Plot Plan approval if Planning Director determines that project meets Class 31 CEQA Guidelines exemption for historical resource restoration/rehabilitation or provides mitigation per Secretary of the Interior's Standards and Guidelines cited in CEQA Guidelines Section 15064.5 b(3)***
53. 7-32 - 7-33 Morros visual standards	Grant exemptions to standards only when dev. not visible from *any public viewpoint* (1a); prohibit ridgetop dev. where visible from *any* public area (1g); encourage new structures to not be visible from any public areas; do not allow alternative dev. locations, except to protect sensitive habitats (1d); prohibit land divisions in sensitive areas (1i)	Standards, including 1a,1g, consistent with Coastal Plan Policies for visual and scenic resources: site selection to emphasize locations not visible from major public view corridors (not any public point); 1d: alternative locations need to be provided for in case of sensitive habitat, hazards, steep slopes, arch. sites, etc.; 1i: ***revise areawide resource protection standards: prohibit land divisions unless all building sites entirely outside of sensitive areas (as broadly defined in proposed areawide resource protection stnds) and required setbacks***
54. 7-32 - 7-33 Morros biological standards	1b: require assessment of sensitive habitats and impacts as part of dev. application in order to implement 1c; 1c: design and locate dev. to *avoid*, rather than minimize impacts; otherwise prescribe type and amount of mitigation required	***1b: require application to include biological report by qualified professional (unless Env. Coordinator determines unnecessary) that recommends measures to avoid, and if not possible, to mitigate impacts to biological resources; 1c: require avoidance of adverse impacts***; mitigation measures site specific, can't be prescribed for all cases--to be determined based on required biological report
55. 7-3 C1	Allow new recreational uses prior to abandonment of facility to allow continued lateral coastal access and bike path	Standard applies to AG category inland of Hwy. 1; separate standards (7-45), programs for REC category west of Hwy. 1 provide for recreation, coastal access
56. 7-44 REC, B	Acknowledge that Dev. Plan for Montaña de Oro may be amended or superceded, and that dev. in Coastal Commission jurisdiction subject to review, approval by Coastal Commission	***Revise accordingly***

E-56

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
57. 7-94 A, B	Provide evidence of available water, compliance with RWCQB requirements at time of permit application	***Require land use permit applications to include Intent-to-serve letter from water purveyor (see table of Proposed Solutions to Coastal Commission Staff's General Comments, public services)***; projects must comply with RWQCB standards prior to building permits; more appropriate for RWQCB to verify compliance prior to building permit issuance to reflect changes in project from time of application submittal; areas of high groundwater to be served by sewer
58. 7-96	Show USL on Fig. 7-37	Map will be hard to read; refer instead to other maps that show or will show location of USL; e.g., Figure 3-2, Map M17 following Chapter 7
59. 7-97 2	Do not allow extension of water, sewer services beyond USL due to lack of available services	***Delete 2a;*** intent of 2b is to protect habitat by allowing clustering; ***revise 2b so extensions for new land divisions require adequate water/sewer capacities, as applicable, to be in place to serve buildout on vacant parcels within USL (see proposed communitywide planning area standard in table of Proposed Solutions to Coastal Commission Staff's General Comments, public services)***
60. 7-100 E1,2	Prohibit extension of 3rd Street if loss of wetlands can not be avoided; do not include South Bay Blvd. unless development served by road will protect sensitive habitat	3rd Street extension, E1 to be deleted; ***delete South Bay Blvd. extension, but preserve right-of-way for potential trail use***
61. 7-100 3d	Street trees should be non-invasive	Tree list used by staff excludes invasive species
62. 7-101 4a(3)	Permit extension of stub streets only where no impacts to sensitive habitat	***Revise to state "Where feasible <u>and no adverse impacts to environmentally sensitive areas (see Section IIIA) will occur</u>, extend stub streets..."***
63. 7-101 G2	Fences for bayfront development should not interfere with movement/migration of native wildlife	***Revise by adding: Fences on the bayfront side of dev. shall not interfere with movement/migration of native wildlife***
64. 7-112 A	Requirement for rough proportionality and nexus could lead to inappropriate dropping of access requirements; doesn't recognize cumulative impacts of development on access, recreation opportunities	***Delete reference to nexus, rough proportionality, and revise language on page 7-5 consistent with Coastal Act 30001.5 (see note following this table)***
65. 7-115 Table 7-4	Show areas subject to wetland setbacks on map	***Include map to accompany Table 7-4, Wetland Setbacks***
66. 7-116 6	Setbacks adjacent to public holdings on western, southern fringes of URL should apply to all development; EIR should evaluate adequacy of setback	***Revise: new land divisions <u>and development</u> to provide <u>minimum</u> 50' setback adjacent to public land holdings; <u>biological report required by 23.07 to verify adequacy of setbacks or recommend greater, more appropriate setbacks;</u>*** setbacks too site-specific to address in Area Plan EIR

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
67. 7-126 Design Guidelines	Require access to bay, where feasible and consistent with natural resource protection, as a policy rather than guideline; require interpretive facilities and monitoring and maintenance plans to accompany new accessways to bay	***a) Add new standard 6 (to replace first guideline) to require public access to bay where feasible and consistent with protection of natural resources; b) revise Combining Designation standard A for coastal access and recreation (pg. 7-112, Draft Plan) as follows: make first paragraph areawide; In connection with new publicly-developed coastal access and recreation to and along the bay, require resource monitoring, management and provision of interpretive facilities at points of attraction, consistent with a coastal access plan to be developed, and consistent with CZLUO 23.04.420h; also revise Chapter 8 accordingly***
68. 7-134 A	Is residential development appropriate considering lack of public services (including parks), questions about jurisdiction, impacts on sensitive habitat?	***Revise development potential to 1 residential parcel and unit/5 acres, clustered or concentrated, consistent with density to be applied to environmentally sensitive habitat throughout the community (see page 5, LOCAC-recommended Solutions to Coastal Commission Staff's General Comments); total development potential would be 2 units***
69. 7-135 B	Question residential dev. in REC category; sensitive habitat in area west of 4th Street? Why credit of 1 unit/acre? What is maximum density west of 4th Street--will it cause adverse impacts on sensitive resources?	No dev. to be allowed in REC category; area adjacent to 4th Street is RSF; RSF area does not appear to have wetlands, but proposed standards (in draft plan, Revision Package #1) require: biological report to delineate any wetlands, dev. to set back from any on-site, adjacent wetlands, not cause adverse impacts to wetlands or estuary; 1 unit/acre credit based on 5 acres of privately-owned property that is to be open space; ***revise B1 to require REC category to be open space in perpetuity***; maximum theoretical development potential of entire property: 1.8 acres of RSF + 5 units from REC = 18 units on 1.8 acres + 6.2 acres of open space
70. 7-140 F	120 lodging units on 10 acres is excessive due to visual and habitat sensitivity, lack of services; allow public accessways, passive recreation; specific resource protection, mitigation standards for development	***Bring back to LOCAC a lower cap on number of units and area of disturbance; Revise standards (F, page 7-140): base location and size of development on biological evaluation; require undeveloped area to remain in open space in perpetuity; direct coastal access to existing disturbed areas usable for access, and provide interpretive facilities; add coastal accessways and passive recreation as allowable uses to reflect recommended provisions for coastal access***; see table of Proposed Solutions to Coastal Commission Staff's General Comments, environmentally sensitive habitat; ***add new standard L (page 7-159 for West of Pecho Area) to make lodging an optional use on the northern portion of the Holland property (Tentative Tract 1646 located west of Pecho Road, south of Skyline Drive, east of Solano opposite Sea Pines)***
71. 7-141 A2	Do not allow land divisions or density bonuses until adequate public services provided	Overall buildout to be substantially reduced; see table of Proposed Solutions to Coastal Commission Staff's General Comments, public services

LOCAC-recommended Solutions to Coastal Commission Staff's Specific Comments: Los Osos (9/28/2000)

Page/ paragraph	Coastal Commission Comment	Proposed Solution
72. 7-141 A3	What are "the most significant areas of habitat..."? DEIR should evaluate adequacy of setback	***Delete this phrase: "...upland extent of riparian vegetation, and ~~the most significant~~ areas of habitat that support rare, endangered or threatened species as ..."*** setbacks too site-specific to address in Area Plan EIR
73. 7-144 D	Standards should protect sensitive habitats, allow wastewater treatment; require evidence of compliance with state and federal Endangered Species Acts at time of permit application--apply throughout planning area	***Place Public Facilities symbol on site of Resource Park on Combining Designations Map; revise standards for Morro Shores Mixed Use Area (D6, page 7-145) to require that development be clustered or concentrated away from environmentally sensitive habitat and cultural resources; additional mitigation should be provided offsite through HCP, if needed;*** wastewater treatment allowable per 7c (to be 6e), page 7-150; areawide resource protection standards protect sensitive habitat planning areawide; determining whether project may impact listed species requires environmental review and/or HCP (done after application acceptance); U.S.F.W.S usually does not confirm compliance with Endangered Species Act
74. 7-156 H 7-172 A	Allow public access connections that are sensitively designed, appropriately managed; allow driveways to be constructed of pervious materials for drainage, groundwater recharge; specify minimum setbacks from sensitive habitat that provide adequate fire clearance without removal of native vegetation; analyze in EIR; evaluate height limits for impacts to visual	See preceding items 38 and 67 regarding trails, coastal access (limitation on use, item 3, page 7-156 is for *existing* Cabrillo Estates–coastal access allowable on Pratt property); all-weather or non-skid surface (depending on driveway grade) needed for fire safety purposes (driveway construction standards in item 5, page 7-157 are for *existing* Cabrillo Estates per tract conditions or CCRs); minimum setbacks from sensitive habitat set by CZLUO--in general no grading within 100' of env. sensitive habitat, adjustment to 50' possible; ***revise A1d, page 7-8 re setbacks by adding at end: "No grading or removal of native vegetation shall occur within the setbacks/buffers needed to protect sensitive habitat;"*** setbacks and height limits too site specific to be evaluated in area plan EIR--would be evaluated by project-specific environmental determination
75. 7-158-9	Emphasize protection of habitat, visual resources; height limits, design standards to protect views from beach, ocean?	This area is already developed per Tract 1589

Note for item 7: Revise the last sentence of the 4th paragraph on page 7-5 as follows:

Land dedications and other exactions identified in this plan are intended to mitigate the impacts of specific development proposals, and to insure consistency with the Local Coastal Program. In some circumstances, the county may conduct a nexus and proportionality study to provide the practical and legal basis for the proposed exactions. Dedications and exactions will be pursued consistent with Section 30001.5 of the California Coastal Act considering the need to:

1. ***Assure the orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state; and***
2. ***Maximize public access to and along the coast and maximize public recreation opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.***

E-59

Coastal Commission Comment	Proposed Solution
Public Services: Prohibit all land divisions, new development or increases in allowable density until evidence of sustainable water supply and wastewater treatment system (Los Osos) is provided. Require evidence at time of permit application	**Add New Areawide Policy:** Continue to monitor water demand through the RMS system to assure that new development can be accommodated by water supplies. **Add New Cayucos Policies:** 1. Assure that development can be accommodated by existing water supply & sewage disposal capacity; no new land divisions until water supplies and sewage disposal capacities adequate to serve buildout on vacant parcels under this plan. (consistent with CZLUO when RMS II,III) 2. Phase development in accordance with available water supplies. An example of buildout estimates under this plan for different scenarios follows: *Interim buildout will vary depending on factors such as actual water usage, water conservation programs, ratio of residential to non-residential development, and occupancy, and is meant to be illustrative only.* a) Assuming a total water supply of 600 acre-feet per year (no supplemental water), interim buildout in the short-to-medium term would be a total of about **2,366-2,613 dwelling units.**[1] b) Assuming a total water supply of 600 acre-feet per year, and assuming that all residential and non-residential uses are retrofitted through water conservation programs, buildout in the long-term would be about **2,570 dwelling units.**[2] c) Assuming a total water supply of 724 acre-feet per year (124-acre-feet per year of supplemental water), buildout in the long-term would be about **2,618-2,763 dwelling units.**[3] d) Assuming a total water supply of 724 acre-feet per year (124-acre-feet per year of supplemental water), and assuming that all residential and non-residential uses are retrofitted through water conservation programs, buildout in the long-term would be about **3,068** dwelling units.[2] Footnotes: Buildout Assumptions 1 83%/72% occupancy for existing development; 95% occupancy for new development; average water use for existing development: .2643 acre-feet per year per dwelling unit; average water use for new development: .2254 acre-feet per dwelling unit per year; residential water usage = 86% of community total 2 89% occupancy for existing development; 95% occupancy for new development; average water use for existing development reduced by 20%; other assumptions same as in footnote #1 3 89%/84% occupancy for existing development; 95% occupancy for new development; other assumptions same as in footnote #1

Coastal Commission Staff Comment	Proposed Solution
(Continued from Page 1) **Public Services:** Prohibit all land divisions, new development or increases in allowable density until evidence of sustainable water supply and wastewater treatment system (Los Osos) is provided. Require evidence at time of permit application	**Add New Communitywide Planning Area Standards:** (similar to existing CZLUO standards when RMS II,III) 1. Prior to approval of applications for land divisions (other than condominium conversions), a finding shall be made that there are sufficient water and sewer capacities, as applicable, to serve existing development (at current rates of water use and occupancy), plus the proposed land division, plus buildout under this plan of all vacant parcels in residential and non-residential land use categories. 2. Service Availability: Land Use and Building Permit Application Content. a. Land Use Permits. All land use permit applications for development shall be accompanied by letters from applicable water purveyor and Cayucos Sanitary District stating their intent to serve the proposed project. b. Building Permits. Same as communitywide standard A in Draft Plan
Public Services: Substantially reduce buildout consistent with sustainable water supply; account for a higher occupancy rate for Cayucos ***[Reducing RMF density to 10/acre and excluding Bella Vista, Maino and two Borradori properties from water demand results in buildout that can be supported by 600 afy, assuming 83%/95% occupancy.]***	**Add new RMF planning area standard** regarding water service so that water supply for Bella Vista Mobile Home Park, Maino and Borradori properties is provided from other than Whale Rock Reservoir, unless sufficient supplemental water obtained to serve buildout of these properties + entire community (since community water supplies limited and these properties not envisioned to be included within the district of a water purveyor in the near future). **Revise Residential Multi-Family (RMF) standard A** (pg. 7-76, Draft Plan) regarding density so that maximum residential density for new projects, except for senior citizen housing, affordable housing per CZLUO and Maino property, is 10 units per acre (total community buildout would be 2,489 dwelling units; buildout of units using community water would be 2,349--the latter buildout could be supported by 600 acre-feet per year of community water, assuming 83% occupancy for existing development and 95% occupancy for new development) **Add a new Cayucos land use program** to consider amending the area plan by revising RMF standard A to increase density to 15 units per acre in the event supplemental water obtained (buildout, excluding Bella Vista, including Maino and 2 Borradori properties, would be 2,609 units, which could be supported by 124 acre-feet per year of supplemental water, assuming 89% occupancy for existing development and 95% for new development EIR to justify use of the above occupancy assumptions for buildout

Coastal Commission Staff Comment	Proposed Solution
Public Services: Require reservation of public service capacities to accommodate recreation and other Coastal Act priority uses	Buildout can be reduced to match resource capacities, therefore not necessary to explore additional measures that give priority to coastal-dependent uses, agriculture, visitor-serving, and recreational uses. Otherwise, ideas would include cooperative allocation agreements between the county and water purveyors, and a program to amend the Growth Management Ordinance to give priority to Coastal Act priority uses until resources can accommodate buildout
Public Services: Prove that Lake Nacimiento water can be secured; do environmental analysis of constructing necessary infrastructure	EIR to explain that no infrastructure construction is needed in Estero for obtaining Lake Nacimiento water due to Whale Rock exchange; environmental impacts elsewhere will occur with or without Cayucos participation
Public Services: Include an EIR alternative in which buildout meets currently available water supplies	Revise EIR project description and analysis to reflect preceding proposed solutions for public services issues
Mixed-Use/Visitor-Serving Uses: Re-evaluate mixed-use in commercial areas (primarily Cayucos CBD, Baywood commercial) for affects on visitor-serving uses; consider prohibiting mixed-use development in Cayucos CBD	**-Revise proposed planning area standards for CR in Cayucos CBD to:** a. Require residential on 2nd floor only in *all* areas b. Set cap of 96 residential units, including caretakers, based on 1 unit/6,000 ft.^{2} of parcel area, min. 40' lot width [residential buildout = buildout of just caretakers units (already allowable in V designation); 49 additional units allowable] c. Prohibit residential additions to/ conversion of hotel/motels, except 1 manager's unit d. Require parking for residential to be on-site -Demonstrate no net reduction in lodging, visitor-serving opportunities; for example, the draft plan recommends the same residential buildout in CR in CBD as could occur if only caretakers residences were developed as allowable per existing plan -Draft plan achieves a balance between visitor-serving and community-serving opportunities; no additional ways to maximize opportunities for visitor-serving uses (especially lower-cost facilities) need to be considered, other than possibly enabling and encouraging a youth hostel -Effect of preceding proposals on visitor-serving opportunities positive compared to existing plan: same overall residential buildout + more required parking (1 space/bedroom, min. 2) -Draft Plan requires findings regarding effect on visitor-serving opportunities

Coastal Commission Staff Comment	Proposed Solution
Hazards: Suggest 100-year (instead of 75-year) bluff setback, + buffer + prohibition on seawalls as condition of development	a. **Add new planning area standard** for 100-year bluff setback b. **Add new planning area standard** to prohibit seawalls with new development, and with certain level of redevelopment, e.g. 25% increase in usable floor area or redevelopment exceeding 75% of replacement cost
Seawalls: Allowing seawalls where seawalls exist on adjacent parcels is inconsistent with Coastal Act, unless a sub-regional solution for sand replenishment is addressed in EIR	a. Determine how many infill seawalls possible where there are existing seawalls on either side; if few infill seawalls possible, retain proposal to allow them, but require that there be no increased erosion or hazards on adjacent properties as demonstrated by a geotechnical report b. **Add new land use program in Ch. 6, Section VA.** to conduct a coastal bluff erosion/sand supply study for Cayucos and vicinity to help determine standards for seawalls, including possible approval of infill seawalls
Environmentally Sensitive Habitat: Prohibit land divisions that would create new lots in sensitive habitat areas or visually prominent locations; pursue consolidation of lots in those areas to the degree feasible	**Add planning areawide standards** that: a. Prohibit land divisions unless all building sites are entirely outside of sensitive areas (as defined in Chapter 7, Section IIIA of the Draft Plan) and the req'd setbacks therefrom, as verified by the required biological report b. Prohibit land divisions where the only feasible building sites are on slopes or ridgetops that result in structures being silhouetted against the sky as viewed from public roads, public beaches, ocean, or Morro Bay estuary c. Prohibit land divisions where access roads or building sites would be located on slopes greater than or equal to 20 percent **Lot consolidation issue needs further discussion with Coastal Commission staff**
Watershed Protection: Provide detailed policies, performance standards for watershed protection, including specific Best Management Practices, monitoring provisions for drainage facilities, etc.	**Establish new policies and planning area standards** using *Comprehensive Conservation and Management Plan* (CCMP) for Morro Bay Estuary, Los Osos/Baywood Park Community Drainage Project, *Ca. Management Measures for Polluted Runoff* (CAMMPR); address construction (before & after) for circulation projects
Visual Impacts: EIR should analyze public views from the Pacific Ocean, public beaches and Morro Bay estuary	Do visual analyses from the Pacific Ocean and the Morro Bay estuary using mathematical method; impacts from public beaches should be covered by analysis from ocean; revise planning area standards for Highway1-Cayucos viewshed to protect views from ocean, as well as Highway 1 and public beaches

Coastal Commission Staff Comment	Proposed Solution
Agricultural Land/Rural Areas: Non-conforming Lots: Include specific standards for existing non-conforming lots with regard to minimum parcel size (to avoid suburbanization of agricultural lands, conversion to non-agricultural uses). Require consolidation with adjacent lots to degree feasible. Refer any post-1973 Certificate of Compliance or Parcel Map to Coastal Commission to confirm that Coastal Development Permit was issued	a. **Revise AG planning area standard A for rural area** (pg. 7-38, Draft Plan) in order to apply Coastal Zone Land Use Ordinance Section 23.04.050 to all residential development, which would be considered a supplemental non-agricultural use (standards include no development on prime soils, maximum 2% of site area in non-agricultural uses) b. LOCAC has recommended the following in addition to a above: (1) Establish a range of areas of disturbance; eg., 2%, but in any case not less than x acres required or more than y acres (2) Assure consistency with Ag & Open Space Element (AGP 18): no new permitting requirements for ag development that is now exempt; standards for projects requiring discretionary approval on irrigated lands or dry farm lands include locating new buildings and structures on a limited portion of total site or other criteria; amend area plans to limit allowable uses on row crop terrain and soils to those that are most directly related to ag production (see planning area standards for the Arroyo Grande, Nipomo and Oso Flaco Valleys) (3) Bring back to LOCAC standard to limit allowable uses on row crop terrain and soils c. **Establish new land use program** to refer to Coastal Commission proposed Lot Line Adjustments and other applications on lots previously issued conditional Certificates of Compliance d. Retain proposed standards for Lot Line Adjustments in Draft Plan e. Retain proposed policy in current draft plan to encourage agricultural speciality uses on small parcels **The concern about Certificates of Compliance needs further discussion with Coastal Commission staff**
Agricultural Land/Rural Areas: Roads/Development: Minimize the length and width of rural roads to avoid conversion of agricultural lands and minimize visual impacts. Site and design development accordingly, and to minimize grading and protect sensitive habitat.	a. **Establish planning areawide standards** to site development so length, width and location of roads minimizes grading and visual impacts, while meeting fire protection requirements and not disturbing prime agricultural soils (in AG category) or sensitive habitat b. **Revise planning area standard D2,**(p. 7-20 of Draft Plan) regarding road design and construction (see #74, Rev. Package #1) to protect prime agricultural soils

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments: Cayucos (8/2/2000)

Page/ paragraph in Coastal letter/ Draft Plan	Coastal Commission Staff Comment	Response/Proposed Solution
1. 3/3 (letter)	Which areas contain valuable habitat, and where should development on land without sensitive habitat be available with off-site mitigation?	SRAs define areas of valuable habitat; why off-site mitigation needed for areas without valuable habitat?
2. 6/2 (letter)	EIR should evaluate how proposed ag land conversions conform with Coastal Act Sections 30241-2	***Can be done in EIR and/or in Planning Commission staff report***
3. 6/3 (letter)	Statements regarding nexus, rough proportionality are unnecessary and limiting, could undermine requirements for coastal access, recreation	***Delete various references tò nexus, rough proportionality in Chapter 7, and revise language on page 7-5 consistent with Coastal Act 30001.5 (see note following this table)***
4. 6/5 (letter)	EIR should identify more detailed visual protection criteria, address visual impacts of TDC program	Draft plan has detailed standards for Morros, Highway 1-Cayucos viewshed; visual impacts would be significantly reduced by reducing dev. potential, concentrating at lowest elevations; *propose standards to:* ***- prohibit land divisions where only feasible building sites on slopes or ridgetops that result in structures being silhouetted against the sky as viewed from public roads, public beaches, ocean, or Morro Bay estuary*** ***-prohibit land divisions where access roads and building sites would be located on slopes greater than 20 percent***
5. 7/3 (letter)	Include specific standards to achieve setbacks for fire protection without removing vegetation that is biologically or visually sensitive; clarify permit requirements for vegetation clearance for existing development	Draft plan has standards to concentrate dev. in least sensitive areas, include buffers to protect sensitive vegetation, locate fuel modification areas to be in addition to required setback from sensitive habitat; ***revise 2b, page 7-10: where possible, design land divisions/development so vegetation/fuel modification areas for fire protection do not disrupt or cause adverse impacts on sensitive features;*** per Coastal Zone Land Use Ordinance, vegetation removal in environmentally sensitive habitats requires land use permit, except less than .5 acres in connection with crop production and grazing
6. 7/last (letter)	EIR should evaluate archaeological protection standards for conformance with Section 30244 of Coastal Act and revise mitigation if needed	The EIR analysis does address impacts to archaeological resources per Section 30244, and considers existing CZLUO standards, draft plan standards, mitigation
7. 1-14	How do goals, policies relate to planning area standards, CZLUO, Coastal Plan Policies?	Goals and policies are implemented by planning area standards, but also function as criteria for development proposals, esp. where no specific standards; they do not supersede CZLUO or Coastal Plan Policies, but are designed to be consistent with and in addition to them

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments: Cayucos (8/2/2000)

Page/ paragraph in Draft Plan	Coastal Commission Comment	Response/Proposed Solution
8. 1-15	Combining designation maps should be used for guidance only; environmentally sensitive habitats dependent on on-the-ground resources	Addressed by resource protection standards, pages 7-9 to 7-10; ***clarify on page 1-15 under "combining designations"***
9. 2-9, Goal 10	How will this affect demand for visitor-serving facilities, coastal access and recreation? Impact on scenic, coastal resources compared to distributing facilities in a greater area?	Goal 10 refers to one 3-acre site that will provide visitor-serving facilities, opportunities for coastal access; visitor-serving facilities already spread along Ocean Ave.
10. 2-17	How can a better jobs/housing balance be achieved?	In Los Osos, jobs/housing balance will improve with reduced res. buildout proposed; more CS could improve situation, but locations very limited, esp. in Cayucos
11. 2-26 A1, B1	How was 2.3% growth rate determined? Are there adequate public services to accommodate this growth? Clarify relationship of Growth Management Ordinance to LCP?	Growth rate consistent with countywide, recommended by communities; implements county General Plan; public service capacities addressed by other policies (see table of responses to Coastal Commission staff's general comments); Growth Management Ordinance is Title 26 of County Code (not part of LCP) and applies countywide
12. 3-8,9	Show locations of URL and USL on Figures 3-1, 3-2	***Will do***
13. 3-12, 3-13	Text and table should reflect existing overdraft in Los Osos and state that buildout will exceed available supplies in Los Osos, Cayucos	***Revise text/tables on pages 3-17,3-20 in accordance with proposed public services policies and standards (see table of CCAC-recommended Solutions to Coastal Commission Staff's General Concerns, public services); compare water supply and demand figures***
14. 3-40	Address significant fire hazards caused by development surrounded by natural vegetation; include standards to address impacts of vegetation clearance and to avoid disruption of sensitive habitat, visual resources	Addressed by planning area standards. See preceding Item 5

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments: Cayucos (8/2/2000)

Page/ paragraph in Draft Plan	Coastal Commission Staff's Comment	Response/Proposed Solution
15. 4-7, #5	Update appears to conflict with Policy #5 (protecting groundwater supplies for ag, GPAs for increasing density, expanding urban areas)	Draft plan decreases buildout in Los Osos groundwater basin compared to existing plan (limited amount of agriculture within Los Osos groundwater basin), does not increase density in rural areas or expand URLs; it encourages ag uses and greenbelts and avoids spread of urban dev. into ag areas; water supplies in Los Osos to be addressed (see table of Proposed Solutions to Coastal Commission Staff's General Comments, public services)
16. 4-11, #12 4-13, #4	Require (rather than just support) improved coastal access, such as a bicycle/pedestrian path connection between Morro Bay and Cayucos, with new development/renewal of lease at Estero Marine Terminal	Requirements need to be related to scope of project; ***revise to "pursue improved coastal access..."***
17. 4-12 #3	Policy limits uses to recreation and visitor-serving, but Table O allows wide range of uses; how to remedy?	This policy applies to rural areas; uses are limited by planning area standards
18. 4-16 A2	Delete "generally" from policy to not expand Cayucos URL	"Generally" allows for future school site to be included in URL, as described in Policy #3
19. 4-18, official maps	Consider revising URL/USL to balance water supply and demand	URL/USL in Cayucos generally encompasses existing developed areas; can't remove those areas; Maino property should not be removed, because it is within Sanitary District, but Draft Plan greatly limits development potential and envisions water supply from other than Whale Rock Reservoir
20. 4-19 B1, text	Correct references to Section F, Chapter 3; how will deficiency of neighborhood parks be resolved in Cayucos?	***B1: change Section F to VI; text paragraph 2: revise last sentence to "(see Chapter 3, Section E., Parks);" text paragraph 3: reference Chapter 3, Section III, Programs***; park deficiency addressed by programs for parks in chapter 4: 2 neighborhood parks + 1 community park on Chevron property
21. 4-21/2	Reference small-scale design neighborhood standards	***Reference Ch. 7, Section V, Cayucos Urban Area Standards, RSF category***
22. F1	Residential as principal uses hurts jobs/housing balance	Cayucos Drive already mixed use; limited opportunities for significant employment ,historically limited demand for office; minor impact on jobs/housing balance
23. 4-49 A2	Clarify relation of Adelaida Planning Area to LCP	Adelaida is outside of coastal zone, but affects Estero, such as in the case of views

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments (8/2/2000)

Page/ paragraph in Draft Plan	Coastal Commission Comment	Response/Proposed Solution
24. 4-51 B3	Prohibit private beach accessways (that are incorporated into seawalls) if any portion located on public property or interferes with coastal access/ recreation, protection of sensitive habitat	***Revise B3b: private beach accessways to be entirely on private property and not impact sensitive habitat***; CZLUO 23.05.090 requires shoreline structures to not preclude public access or adversely impact fish and wildlife, minimize erosion
25. 5-9 - 5-11	Are provisions under "Existing Deficiencies" and "Future Needs" policies? Will new development be required to provide needed improvements?	"Existing Deficiencies" and "Future Needs" are not policies; new development to comply with policies & improvements in Ch. 5--the Circulation Element--and standards in Ch.7; circulation fees to also fund improvements
26. 5-11 B5	Consider abandoning rights of way (eg. paper streets accessing potential development on sensitive habitat) to preclude vehicular access, while allowing other public access, if appropriately managed	Can't abandon rights of way needed for access to property; proposed policy is to preserve rights of way and offers of dedication to preserve public access (doesn't have to be vehicular) to bayfront and public recreation areas (coastal access), and to complete circulation system
27. 5-14 2a	How was 1-mile maximum length of passing lanes determined? (seems excessive); relation to improvements in North Coast?, any road widening should avoid ag conversion, impacts to sensitive habitat, shoreline protective devices	I-mile limit from CCC comments on North Coast (10% of road segment), 1 eastbound, 1 westbound passing lane consistent with North Coast @ .5 miles each; ***revise areawide standard D2, page 7-20: roads shall be designed, constructed to protect ag land to max. extent feasible (as well as sensitive resources and scenic vistas...), and to avoid the need for shoreline protective devices***
28. 5-24 3	Identify importance of managing, monitoring, maintaining trails, trail uses to protect sensitive habitat	***Include language in 3, Equestrian/Hiking Trails; in particular, design trails to protect creek beds from equestrian use during low flow periods***
29. 6-4 B2	Clarify use of "generally" re. setback requirements--weakens purpose of GSA designation	Reflects exceptions provided for in CZLUO
30. 6-5 E	Note that location of sensitive resource areas not dictated by LCP maps, but by actual presence of sensitive resources	***Include statement that SRAs also include areas that may not be mapped, but have sens. features--reference Ch. 7 areawide resource protection standards***
31. 6-26 C	Require protection of habitats in C1b; include in SRA	These areas are generally within SRAs and subject to areawide resource protection standards in Ch. 7
32. 7-8 A1b,e	Location and intensity of new development should protect sensitive features adjacent to site also	***Revise A1b and e to reference sensitive features <u>on or adjacent to the site</u>***

E-69

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments (8/2/2000)

Page/ paragraph in Draft Plan	Coastal Commission Comment	Response/Proposed Solution
33. 7-23,24 G,H	Review standards for conformance with Coastal Act 30244; is coordination with State Historic Preservation Officer required per Coastal Act? consultations with Chumash? Allow for protecting historic resources that may be subsequently identified; protect any structures on site integral to historic structure; too much discretion to Planning Director in determining method of preservation--coordinate with State Historic Preservation Officer	Existing LCP standards certified by CCC under Coastal Act 30244, and draft plan further protects archaeological resources; CZLUO requires site survey by archaeologist knowledgeable in Chumash culture and approved by county; Chumash who have requested notification are notified and involved in process; historic resources identified in the future can be protected through environmental review for discretionary actions, and ultimately, by including them in the Historic designation through a general plan amendment; structures that are integral to historic structure should be included in the H designation; Planning Director would not have too much discretion: findings for protection of resources would still apply as before, but permit level could be reduced from MUP to Plot Plan; ***possibly revise H2 by allowing Plot Plan approval if Planning Director determines that project meets Class 31 CEQA Guidelines exemption for historical resource restoration/rehabilitation or provides mitigation per Secretary of the Interior's Standards and Guidelines cited in CEQA Guidelines Section 15064.5 b(3)***
34. 7-32 - 7-33 Morros visual standards	Grant exemptions to standards only when dev. not visible from *any public viewpoint* (1a); prohibit ridgetop dev. where visible from *any* public area (1g); encourage new structures to not be visible from any public areas; do not allow alternative dev. locations, except to protect sensitive habitats (1d); prohibit land divisions in sensitive areas (1i)	Standards, including 1a,1g, consistent with Coastal Plan Policies for visual and scenic resources: site selection to emphasize locations not visible from major public view corridors (not any public point); 1d: alternative locations need to be provided for in case of sensitive habitat, hazards, steep slopes, arch. sites, etc.; 1i: ***revise areawide resource protection standards: prohibit land divisions unless all building sites entirely outside of sensitive areas (as broadly defined in proposed areawide resource protection stnds) and required setbacks***
35. 7-34 1j	Requiring open space in rough proportionality to impacts could inappropriately limit open space; prohibiting public access may preclude prescriptive rights, mitigation of impacts on public access; how does TDC program preserve open space? Require open space to be preserved in perpetuity	***Delete reference to rough proportionality and revise language on page 7-5, consistent with Coastal Act 30001.5 (see note following this table); revise 2nd sentence to require open space in perpetuity; delete part of last sentence that precludes public access;*** if TDC credits sold, site subject to conservation easement
36. 7-34 - 7-36 2,3 Cayucos-Hwy 1 viewshed	See comments on preceding item 34--visual standards for the Morros; include views from the ocean; provide additional standards to protect views of shoreline and ocean from Hwy 1, other public areas; why exempt residential structures < 600 sq. ft. from standard for areas west of Cayucos?	See response for item 34; ***revise first sentence of 2, 2a(2), 2c, 2d to protect views from ocean, as well as Hwy. 1 and public beaches***; additional standards not needed for area west of Cayucos--nearly all of area is now protected by State Parks, rest of area generally does not interfere with shoreline, ocean views due to topography; small structures exempted so no visual analysis for sheds, guest houses that wouldn't have significant visual impacts
37. 7-39 C1	Allow new recreational uses prior to abandonment of facility to allow continued lateral coastal access and bike path	Standard applies to AG category inland of Hwy. 1; separate standards (7-45), programs for REC category west of Hwy. 1 provide for recreation, coastal access

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments (8/2/2000)

Page/ paragraph in Draft Plan	Coastal Commission Comment	Response/Proposed Solution
38. 7-42 3b(3)	Clarify that objective of site restoration, environmental mitigation is to return site to natural condition that facilitates use for agricultural and recreational purposes	***Revise to state that plans for site restoration, environmental mitigation to facilitate use of site for uses allowable in the AG category***; recreational uses more applicable to REC category west of Hwy. 1, AG category
39. 7-44 REC, A	Why does standard exclude general public access and recreational uses?	This area is developed with private mobilehome and RV park--not appropriate for general public access, but RV Park does provide lower cost recreation
40. 7-45 C	Note that new development must comply with all other applicable LCP requirements	This is a general rule, as stated on page 7-5, 4th paragraph, 1st sentence
41. 7-46 A	Provide evidence of adequate public services at dev. review stage; water and sewer evidence should identify specific allocation granted and amount of service capacity remaining	***Require "intent-to-serve" letters for water and sewer with land use permit applications*** (see page 2 of other table of proposed solutions to Coastal Staff's general concerns); water purveyors and Sanitary District do not grant an allocation; county monitors resource capacities through the Resource Management System
74. 7-46 C	Prohibit condominium hotels, motels if they would replace, convert existing transient occupancy use	CZLUO requires finding of no reduction in availability of accommodations for overnight or transient occupancy by general public compared to conventional hotel, motel (simply prohibiting replacement precludes replacing 10-unit motel with 25-unit condo-motel, for example, that may provide greater availability of accommodations for general public)
42. 7-56 A2	Design seawalls to avoid any encroachment onto public beach or sensitive habitat, reference CZLUO 23.05.090	***Revise A2 to Seawall <u>Design</u> and Appearance, seawalls shall be entirely on private property and shall not impact sensitive habitat, consistent with CZLUO 23.05.090*** (which requires shoreline structures to not preclude public access or adversely impact fish and wildlife, minimize erosion)
43. 7-63 4c Mixed-use	Specify that parking for residential to be on-site	***Revise to specify one <u>on-site</u> parking space per bedroom***
44. 7-67 C1	Allow coastal access and recreational uses available to general public as principally, rather than non-principally permitted uses	***Move coastal accessways to principally permitted uses, in addition to indoor amusements and recreation, libraries and museums, outdoor sports and recreation, passive recreation; other uses in cultural, education and recreation use group per Table O to remain non-principally permitted uses***

CCAC-Recommended Solutions to Coastal Commission Staff's Specific Comments (8/2/2000)

Page/ paragraph in Draft Plan	Coastal Commission Comment	Response/Proposed Solution
45. 7-75 D Maino Property	Re-evaluate allowing residential uses based on lack of water and parks; address habitat, visual impacts from public areas	Revision Package #1: residential dev. potential reduced from 98 to 15 units, no visitor-serving, commercial; standards to locate dev. below 80', 20% slope, minimize views from Hwy. 1, North Ocean Ave (locating below 80' elevation will reduce visual impacts from other public areas also
46. 7-77 C, D	Do height standards protect views of shoreline, ocean from Hwy. 1. Ocean Ave., esp. in Locarno? will curb, gutter sidewalk waivers interfere with lateral coastal access?	22' height in RMF, 20' in Locarno, is restrictive; Locarno mostly developed; no visual impacts from Hwy. 1; any dev. on west side Ocean Ave. will impact views from that street; areas subject to curb, gutter sidewalk waivers not needed to facilitate lateral coastal access

Note for item 35: Revise the last sentence of the 4th paragraph on page 7-5 as follows:

Land dedications and other exactions identified in this plan are intended to mitigate the impacts of specific development proposals, and to insure consistency with the Local Coastal Program. In some circumstances, the county may conduct a nexus and proportionality study to provide the practical and legal basis for the proposed exactions. Dedications and exactions will be pursued consistent with Section 30001.5 of the California Coastal Act considering the need to:

1. ***Assure the orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state; and***

2. ***Maximize public access to and along the coast and maximize public recreation opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.***

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

OCT 16 2000
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

DATE: OCTOBER 12, 2000

TO: LOS OSOS COMMUNITY ADVISORY COUNCIL

FROM: MIKE WULKAN, PROJECT MANAGER, ESTERO AREA PLAN UPDATE

SUBJECT: RECOMMENDATIONS FOR 42.5-ACRE WESTERN FRINGE; MORRO BAY AND LAND CO.

The draft Estero Area Plan includes several planning area standards for the 42.5-acre property west of Pecho Valley Road in the "Western Fringe" area. The standards limit uses to hotels and motels, with a maximum of 120 lodging units, including up to 20 "condominium-hotel" units. In addition, all development is to be clustered or concentrated next to the adjoining 17-acre Morro Montana property on a maximum of 10 acres, with the precise location of development and number of units to be based on a biological evaluation of the site.

The Coastal Commission staff is concerned that the proposed standards in the draft Estero Area Plan would result in an excessive amount and extent of development due to visual and habitat sensitivity and a lack of services. In addition, the Coastal staff recommends making public accessways and passive recreation allowable uses on this property, and establishing specific standards for protecting natural resources and mitigating environmental impacts.

Based on recommendations made by the LOCAC on September 28, and on discussions between Planning and Building staff and Ned Rogoway, representative for Morro Bay and Land Co., the following is proposed:

1. Include the site in the USL, as recommended in the draft area plan

2. Limit allowable uses to hotels, motels; coastal accessways; passive recreation

3. Reduce development intensity to a maximum of 100 lodging units--up to 20 of which may be "condominium-hotel' units–on a maximum of 8 acres, including access roads

4. Require that the undeveloped area (at least 34.5 acres) be retained in open space in perpetuity

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600 • 1-800-834-4636
EMAIL: ipcoplng@slonet.org • FAX: (805)781-1242 • WEBSITE: http://www.slonet.org/vv/ipcoplng

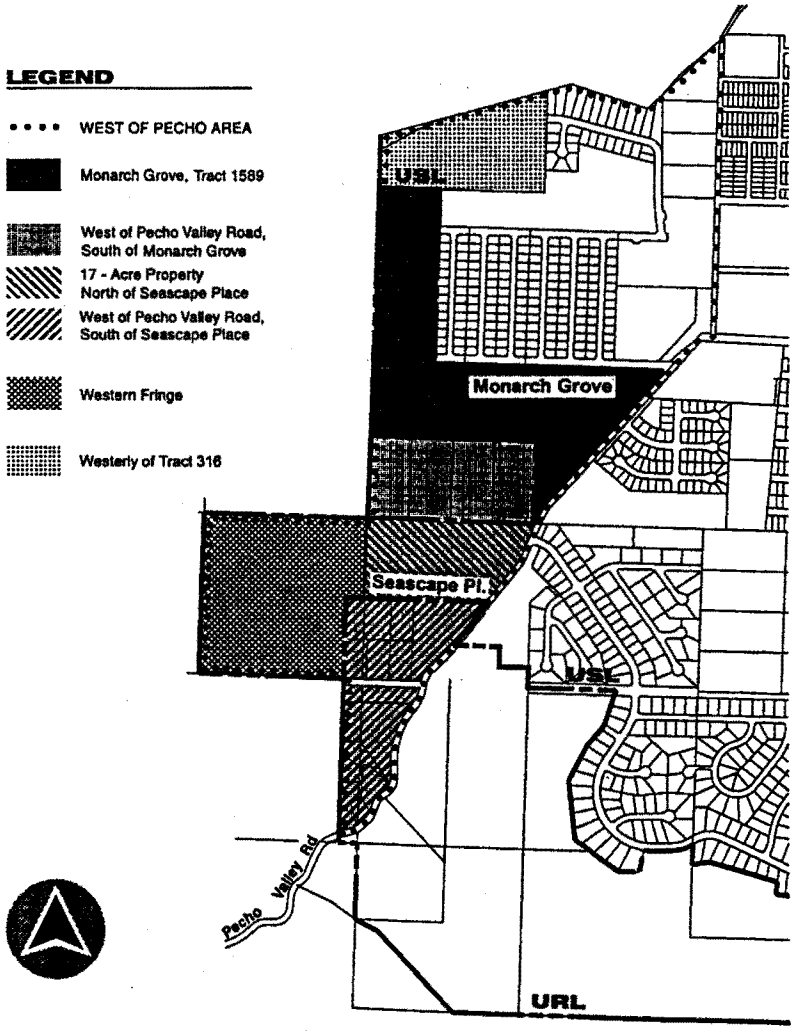
5. Base the location and size of development on a biological evaluation and visual study, so that development is clustered or concentrated in the least environmentally and visually sensitive area (habitat takes precedence over visual sensitivity)

6. Consistent with preceding #4, remove the requirement that development adjoin the 17-acre Morro Montana property

7. Require buildings to be of a residential scale, with low profiles and heights that are limited in accordance with recommendations of a visual study so that views from Pecho Valley Road and other public vista points are protected

8. Require development to fit-in or adapt to the natural terrain, while avoiding the need for grading and alteration of natural topography and vegetation

9. Direct coastal access to existing disturbed areas usable for access, and provide interpretive facilities



STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

January 23, 2001

Bruce Buel, General Manager
Los Osos Community Services District
2122 9th St.
Los Osos, CA 93402

Subject: ***Draft EIR for the Los Osos Wastewater Facilities Project***

Dear Mr. Buel:

Thank you for the opportunity to comment on the above referenced document, and for your continuing efforts to coordinate the Los Osos Wastewater project with the Commission staff and other involved regulatory agencies.

In general, the document effectively identifies overall impacts posed to coastal resources by the project, and suggests appropriate mitigation measures intended to avoid and minimize most of these impacts. We are particularly encouraged by the proposal to coordinate the development of a Habitat Conservation Plan for the area, which will be an important component to addressing the cumulative impacts posed to sensitive habitats by the buildout facilitated by the Wastewater Treatment Project. However, the particular details of this proposition, and many of the other project impacts and mitigation measures, require further analysis and discussion. Similarly, while the document provides a thorough assessment of project alternatives, it does not adequately articulate why certain alternatives, especially for the treatment plant site, are not being pursued. Finally, we appreciate the intention to size the facility to accommodate the level of development allowable under the Estero Plan, and recognize the challenge of achieving this objective given the current status of the Estero Plan Update. Given the ongoing discussions regarding the overall buildout that should be allowed within the area, perhaps there is a way to phase the project in a manner that can respond to future changes to the Area Plan that may affect buildout levels. These and other comments are discussed in more detail below.

I. Biological Resources

A. Direct Impacts

1. Impacts to Terrestrial Habitats

In order to mitigate direct impacts to sensitive terrestrial habitats, the DEIR proposes to purchase and protect the 80 acre Broderson site, with exception for the construction and maintenance of leach lines for treated wastewater disposal, which will periodically impact approximately 8 acres of the site[1]. The long-term protection of the habitat on this site will certainly be a significant contribution to the conservation of dune scrub and maritime chaparral habitats unique to the Los Osos area. Nevertheless, additional information is needed to establish that this mitigation will effectively offset the direct impacts of the project.

[1] Please clarify whether this estimate includes the construction/maintenance road associated with the leachfield.

First, while the DEIR does a good job of identifying the different types of habitats that will be directly impacted, it does not identify the *quantity* of each particular habitat type expected to be impacted. To ensure that the impacts to each habitat type is effectively offset, these figures should be provided, and compared to the habitat types and quantities that will be protected at the Broderson site. Please include a more in-depth analysis of the biological impacts posed by the disposal facilities proposed on the Powell site as part of this analysis.

Second, to determine the adequacy of the proposed mitigation, a qualitative assessment of the habitats impacted versus the habitats to be preserved is needed. This should include a more detailed evaluation of whether the mitigation will effectively prevent the direct impacts of the project from significantly disturbing sensitive habitats, or jeopardizing their biological continuance. At a minimum, the size and location of the mitigation areas should be shown to provide equal or greater biologic productivity than the area of impact, and should be evaluated for its ability to protect and enhance the long-term viability of each habitat type impacted by the project.

With respect to the mitigation measures for direct impacts proposed on pages 285-290, we have the following questions/comments:

- Mitigation BIO-1 proposes to assess and minimize the impacts of constructing the collection system on undeveloped lots, which may support wetlands or other sensitive habitats, with pre-construction surveys. Where the collection system has the potential to impact significant habitats such as wetlands, these impacts should be identified ahead of time, and alternative alignments that would avoid such impacts should be pursued. Where the impacts can not be avoided, mitigation measures should be identified.

- Mitigations BIO-2 and BIO-11 call for the project to avoid Monarch butterfly roosting habitats where feasible. It does not, but should, identify how unavoidable impacts will be mitigated.

- Part C of Mitigation BIO-4, as well as Mitigations BIO-10 and BIO-14 for the Morro Bay Kangaroo Rat, propose to compensate for unavoidable losses of coastal scrub habitat through the acquisition if additional habitat. In addition to the criteria established by these mitigation measures, the area to be acquired should be potentially impacted by development to qualify as mitigation (i.e., land that is currently protected or in public ownership should not be used for mitigation). Part D of measure BIO-4 identifies restoration requirements for the mitigation, including maintenance and monitoring. This should be supplemented with specific performance standards that will be used to ensure the success of the mitigation.

- Mitigation BIO-5 identifies means of minimizing disturbance to sensitive terrestrial habitats. This should include limiting construction ingress and egress routes to the minimum necessary, and aligning them along the most disturbed areas possible. Similarly, staging areas for construction supplies and equipment should be located outside of sensitive habitat areas to the greatest degree feasible.

2. Potential Impacts to Wetlands and Riparian Habitats

Page 274 of the DEIR recognizes that implementation of the wastewater treatment project will alter groundwater flow, and thereby may alter the saltwater/freshwater characteristics of surrounding wetland habitats. While the DEIR states that the location and extent of these alterations can not be predicted, it also asserts no net loss of either freshwater or saltwater wetlands are expected. On what basis can this be assumed? Please consider incorporating a mitigation measure that would provide for monitoring of these impacts where they are most likely to occur. If adverse impacts to wetland habitats are observed, changes in the timing, amount, and location of treated effluent disposal that would minimize such impacts should be pursued.

Similarly, page 283 of the DEIR acknowledges that treated effluent disposal, and associated changes to the groundwater flow, may impact water levels in Los Osos creek. It appears that the design of the disposal system has appropriately taken this into consideration, by disposing treated wastewater east of the Los Osos fault in an amount that is roughly equivalent to the amount of discharge by existing septic systems in this area. Nevertheless, given the complexities of the groundwater regime, and the significant resources that are dependent upon adequate water flow in Los Osos creek, a mitigation measure to monitor this situation should be considered.

B. Indirect and Cumulative Impacts

As previously noted, we are encouraged by the proposal to address the projects indirect and cumulative impacts through a comprehensive Habitat Conservation Plan (HCP) that will be coordinated with the Estero Area Plan Update and involved agencies. The outline of this mitigation provided on page 290 of the DEIR represents a good start at defining the different components and objectives of this Plan. A great deal of additional work will be required to develop the details of this plan, and analyze its ability to effectively address the cumulative impacts of the buildout facilitated by the project.

The fact that the HCP is in its infancy raises significant issues with respect to the timing of the project. We recognize that the CSD, as the lead agency, is responsible for determining the level of detail that needs to be provided by this mitigation measure in order to comply with CEQA. If the specific details of the HCP and analysis of its effectiveness will not be provided by the EIR, in as much as the HCP is proposed as part of the project's mitigation it will be important to develop this information as part of the Coastal Development Permit application.

Alternatively, if the development and refinement of the HCP and its incorporation into the Estero Area Plan can not be achieved within the timeframe for project implementation established by the Regional Water Quality Control Board, phasing of the project should be considered. For example, the first phase of the project could be designed to accept wastewater from existing development only. A second phase that would accept wastewater from new development within the Urban Services Line (USL) could be timed to occur after the HCP has been completed and incorporated into the Estero Area Plan. Finally, a third phase would provide service to those areas between the USL and the Urban Reserve Line (e.g., in the proposed collection areas outside the USL in Bayview Heights and surrounding the Monarch Grove subdivision) only after

those areas were incorporated within the USL via LCP Amendment. Such a phasing scheme would also be appropriate to address constraints regarding the region's water supply constraints, as further addressed below.

Whether or not a phasing component is incorporated into the project, we request that the final EIR discuss the timing of the HCP in relationship to project implementation.

II. Project Capacity, Buildout and Water Supply

It is clear that substantial effort has been made to size the project in a manner that will accommodate the buildout allowed by the Estero Area Plan, as required by LCP Policies for Public Works. In addition, the sizing of the project has also accounted for the reduction in buildout that has and will be realized through the acquisition of potentially developable areas for conservation purposes. As recognized by the DEIR, the Estero Area Plan Update currently in progress may further impact the buildout of the area. Yet it is not clear how the designed capacity of the project will respond to the changes in the buildout that will occur through the Update.

The Commission staff recognizes the challenge of determining the appropriate capacity of the project at this stage in the update process, particularly in light of the timeframe within which the project must be implemented. Nevertheless, we strongly encourage the CSD to consider means of adjusting the ultimate capacity of the project so that it will conform to the buildout that may occur under the *Updated* Estero Plan. This would not only prevent the project from inducing growth that would otherwise be inconsistent with LCP standards, but may also reduce project costs.

A closely related factor is water supply, as this is one of the most limiting factors in determining the appropriate buildout of the area. While the project and associated conservation program will benefit groundwater resources, it remains unclear whether there will be an adequate supply to support the level of buildout accommodated by the Estero Area Plan. As stated on page 143 of the DEIR, future water demand will greatly exceed supplies, even with the proposed conservation measures.

Recognizing that the Estero Area Plan Update is the appropriate mechanism to balance buildout levels with available water supplies, page 142 of the DEIR states that information regarding groundwater resources generated by the Wastewater Facilities project and the CSD's forthcoming Water Management Plan will help shape the Update. While the Commission staff is strongly in support of this effort, we are concerned that until the safe yield of the groundwater basin is determined, it will be difficult to determine acceptable levels of buildout and thus, the appropriate capacity of the wastewater treatment facilities.

Again, developing the wastewater project in phases may help resolve this situation. While the phasing program suggested above applies primarily to the timing of hookups to the system, there could be a parallel phasing program related to the capacity of the plant. For example, the treatment plant could be constructed to initially serve existing development, and expanded at a later date to accommodate a level of buildout determined to be commensurate with available

water supplies. Please evaluate the technical feasibility of such a phasing program. If it is not feasible to construct the treatment system in phases, please consider alternative means of staging the capacity of the plant.

III. Alternatives

The Commission staff appreciates the thorough analysis of project alternatives provided by the DEIR. We note that the least environmentally damaging location for the treatment plant location (the Andre site) is not being pursued based on agricultural resource protection concerns and the project objective of providing centrally located park and recreation amenities. Nevertheless, LCP standards for public utilities facilities require such projects to be located outside sensitive resource areas wherever feasible. Because this will be an important issue related to the coastal development permit required for the project, we recommend that the final EIR provide additional reasoning regarding the selection of the Tri-W site, and the consistency of this decision with applicable LCP provisions (especially section 23.08.288 of the CZLUO).

Also, please evaluate whether there are less environmentally damaging locations for disposal of treated wastewater on the east-side of the Los Osos fault (i.e., alternatives to the Powell site).

IV. Other Comments

p.52: Where will the treatment facilities for harvested water be located? If somewhere other than the proposed treatment plant, please analyze the impacts of this facility. In the instance that the preferred option of supplementing the drinking water supply with the harvested water is determined to be infeasible, how will this water be disposed of?

p. 88: If disposal of bio-solids in a landfill is not feasible, additional environmental review and permitting will likely be required to allow for the establishment of bio-solids recycling facility. It therefore may be advisable to resolve this issue as soon as possible, and include the recycling facility within the current project if it will be needed.

p, 125: Storm water, drainage, and erosion control plans, as well as the required geotechnical investigations, should accompany the Coastal Development Permit application for the project. Particular attention should be given to areas where major vegetation or land disturbance is necessary, such as the areas where significant stands of eucalyptus may need to be removed.

p. 154: Minimizing the extent of impervious surfacing associated with the project should be pursued as an additional measure to mitigate drainage, erosion, and water quality impacts.

The Commission staff appreciates the opportunity to submit these comments, and hope that they will assist in resolving the important coastal resource issues associated with the project. If you have any questions, or would like to discuss these matters further, please contact staff analyst Steve Monowitz at (831) 427-4863.

Sincerely,

Charles Lester
District Manager
Central Coast District Office

Cc: Mike Wulkan, San Luis Obispo County Department of Planning and Building
Sorrel Marks, Central Coast Regional Water Quality Control Board
Ron Popowski, U.S. Fish and Wildlife Service
Deb Hillyard, California Department of Fish and Game
Marla Morrissey, Morro Estuary Greenbelt Alliance

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

August 8, 2000

James Lopes, Planner III
San Luis Obispo County Planning & Bldg.
County Government Center
San Luis Obispo, CA 93408-2040

Subject: ***Cambria Design Plan – Public Hearing Draft***

Dear Mr. Lopes,

Thank you for the opportunity to once again review and comment on the Cambria Design Plan. The Commission staff previously submitted comments in March 2000 regarding the Public Review Draft of the Design Plan. Many of our concerns raised at that time have since been addressed; however, the coordination of various related plans being created concurrently deserves further discussion and analysis at this time.

Coastal Act Section 30210 requires that "maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all people...". Furthermore, Section 30252 states that "new development should maintain and enhance public access to the coast by...providing nonautomobile circulation within the development." As such, the Commission staff would like to emphasize the importance of coordinating the implementation of the Cambria Cross-Town Trail Project (as well as applicable portions of the County Bike Plan and County Trails Plan) and the bikeway and roadway improvements proposed in the Cambria Design Plan.

As proposed, the Design Plan does not provide adequate space for bicycle travel along Main Street, presumably because the Cross-Town Trail is expected to provide for both pedestrian and bicycle use. However, in the event that the Cross-Town Trail is delayed, or if the project is abandoned, bicycle circulation in Cambria would be severely impacted. Therefore, in order to maintain continuous bicycle circulation in the community, provisions should be made for bicycle travel through East and West Village until the Cross-Town Trail, or a project similar in focus, is completed.

Thus, staff suggests that the Design Plan include language that reflects this coordination effort. Additionally, it is our hope that a concerted effort will be made to develop a coordinated schedule of the two plans and that alternative modes of transportation will continue to be emphasized, and enhanced, in future project plans. Please understand that while we have attempted to address major concerns at this time, other issues may arise in subsequent reviews. If you have questions or concerns regarding this matter, please contact me at (831) 427-4863.

Sincerely,

Renee Brooke

Renee Brooke
Coastal Program Analyst
Central Coast District Office

STATE OF CALIFORNIA – THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
427-4863

March 9, 2000

Jim Lopes
Department of Planning and Building
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

Subject: ***Cambria Design Plan – Public Review Draft***

Dear Mr. Lopes,

Thank you for the opportunity to review and comment on the Public Review Draft of the Cambria Design Plan. As this plan is intended to supplement and be referenced throughout the updated North Coast Area Plan, the Commission appreciates being involved early on in the review process of this design plan.

In general, the plan attempts to address local issues such as limited parking supply, discontinuity of roadways and sidewalks, and steep slopes, and strives to take advantage of the unique natural resources such as the Monterey Pine Forest and Santa Rosa Creek. We strongly encourage many aspects of the plan such as improved sidewalks and bike lanes to allow for enhanced pedestrian and bicyclist movement through the town, and shared parking lots to minimize the amount of area dedicated to vehicle storage. In addition, the Cambria Design Plan suggests various approaches in which additional parking spaces can be created, including reconfiguring existing parking areas and improving the design of underutilized street ends and alleyways. It is important to note that although the creation of additional parking areas may better serve the visitor-serving uses throughout the town, the proposed location of parking areas is critical, as they should coincide with the intensity of commercial uses and location of major visitor destinations.

Secondly, we encourage incorporating elements into the plan to direct visitors to the coastal areas of Cambria and providing them with alternative means of transportation. This can be accomplished through the use of additional signage, shuttle/trolley stops along Moonstone Beach Drive and Windsor Boulevard, near Shamel Park, and making the public aware of the proposed Cross Town Trail (e.g. signage, trail maps, etc.), which will provide pedestrian and bicycle access between the town and beach areas.

Finally, the plan makes an effort at pointing out the relationship among the Cambria Design Plan and various other design plans such as the Main Street Enhancement Plan and the Cambria Cross Town Trail plan, and regulatory documents such as the proposed update to the North Coast Area Plan. We understand that several of these plans are being developed concurrently and therefore, various inconsistencies may exist until further coordination is made possible among the different local agencies. However, in the meantime, it is necessary to further identify the discrepancies among the plans and explain how they will be addressed. In this end, we have attempted to identify those inconsistencies that were easily comparable, and noted them within our text specific comments below.

Text Specific Comments

Page 42, "Eastern Gateway": Please provide more information on the evaluative criteria used to site the RV and bus parking lot in this location. Due to the proposed location's adjacency to Santa Rosa Creek, adequate provisions for limiting impervious surfaces and controlling polluted runoff would need to be incorporated into the parking lot design. Moreover, any development proposed in this area would need to meet minimum riparian setbacks, protect riparian habitats, and provide detailed drainage plans that incorporate Best Management Practices.

Page 42, "Eastern Gateway": The proposal of a trolley/shuttle to transport visitors to and from parking areas and key drop-off locations throughout Cambria may be highly effective in reducing traffic congestion and parking constraints. We further encourage locating shuttle stops along the Moonstone Beach area and near various other public accessways to the beach.

Page 46, "Streetscape": "One to two bike racks would be installed in the Village Center." Please clarify that these bike racks will be installed *in addition to* those required as a condition of approval for future commercial development.

Page 63, "Nature Walk and Park": We encourage the Nature Walk proposal, smaller in scale but similar to San Luis Obispo's creek walk, as a means to increase pedestrian access to, and public appreciation of, Santa Rosa Creek.

Page 65+, "Parking": The first paragraph references the total amount of parking spaces currently available within the East Village; however, Table 3 "East Village Parking Changes" includes only figures for locations where parking is proposed to be added, reduced, or redesigned. This is somewhat confusing; therefore, we recommend that Table 3 be expanded to include parking counts for all areas of the East Village. In addition, we encourage that similar tables be created for parking spaces in the Mid-Village and West Village.

Page 69, "Building Height": The design plan's proposed maximum allowable height of 28 feet in the East Village is inconsistent with the County's proposed North Coast Area Plan update (January 2000), which states that buildings shall be no more than 25 feet in height (page 7-85). We understand that these two plans are being developed concurrently and other similar discrepancies may be encountered in the future. Please explain how these inconsistencies will be resolved throughout the review process.

Secondly, the Cambria Design Plan states that, "Building height is measured at every individual point on a site from the existing grade to the top of the building directly above that point." This proposal appears to be inconsistent with the requirements of the Coastal Zone Land Use Ordinance, which states that "the height of a building or structure is to be measured as the vertical distance from the highest point of the structure to the average of the highest and lowest points where the exterior walls would touch the natural grade level of the site." Once again, please explain how this inconsistency will be resolved.

Page 78, "Santa Rosa Creek Frontage": We support the proposal for development of sites adjacent to Santa Rosa Creek to be designed to face the creek as well as the street. This serves to enhance the visual resources of the riparian corridor and provides the public with opportunities to view the creek from windows, pathways, and outdoor patios.

Page 96, "Parking": The proposal for an RV and bus parking lot in this location, adjacent to Highway One and Santa Rosa Creek, needs further analysis. Locating a parking lot adjacent to the creek increases the amount of impervious surfaces in this area and creates an additional source for polluted runoff to enter the waterway. As noted above, any development proposed in this area would need to meet minimum riparian setbacks, protect riparian habitats, and provide detailed drainage plans that incorporate Best Management Practices.

In addition, "because the lot is highly visible from the Highway One corridor and thus an important visual impression to Cambria," we question the appropriateness of such a use (parking for large vehicles) in a highly scenic area. Landscaping to protect the visual quality of the area will be an essential component to any such development.

Page 128, "Northwestern Gateway": Please update the last paragraph to reflect the County's recent approval of a coastal development permit that allows expansion of the mini-mart and requires lowering of the existing sign.

Page 132, "Flexible Parking Zone": Please provide more information regarding the creation of a "flexible zone." How does a difference in elevation of three inches between the parking area and the roadway create a distinctive transition zone?

Page 146, "Highway One Frontage": Please revise the first sentence to read, "Development on any site in the West Village that has a rear property line along, *or can be viewed from*, Highway One shall store...".

Page 161, "Goals for Moonstone Beach": Please consider an additional goal to maximize public access to the coast.

Once again, we thank you for the opportunity to comment on this design plan and look forward to working with you throughout the planning review process. If you have questions or would like to discuss these comments further, please contact me at (831) 427-4863.

Sincerely,

Renee Brooke

Renee Brooke
Coastal Program Analyst
Central Coast District Office

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

November 29, 2000

Kimberly Brosseau
San Luis Obispo County Planning & Bldg.
County Government Center
San Luis Obispo, CA 93408-2040

Subject: ***Wireless Communication Facilities***

Dear Ms. Brosseau,

Thank you for the opportunity to review and comment on various wireless communication facilities projects (D000092D, D000105D, D000111D). We understand that the County has submitted an amendment to the certified Local Coastal Program (LCP) relating to wireless communication facilities, which is currently under review by the Commission staff. While the Commission has not yet acted on the LCP amendment submittal, we encourage the County to use the proposed development standards regarding siting, signage, and availability of wireless communication facilities as guidance in reviewing these project proposals. Visual and Scenic Resource Policies of the LCP, the standard of review in this case, require development to be sensitive to the character of rural areas, minimize landform alterations, and protect unusual landforms, scenic vistas and sensitive habitats. These policies would support the application of the proposed LCP amendment language, mentioned above.

In addition, Commission staff has the following comments and concerns in regard to this type of development:

1. Visual and Scenic Resource Policies should be applied to all aspects of the proposed project, including towers, poles, panels, fencing, equipment cabinets, access roads, etc. Because this type of development is likely temporary in nature (facilities change as new technology is developed), efforts should be made to limit the amount of landform alteration necessary to construct and maintain the facility.

2. While we generally concur with the County's proposed development standards regarding wireless communication facilities, we recommend that some discretion be used when applying the screening standard, which requires that all antennas be shielded with vegetation. Based on specific sites and project proposals, vegetative screening may not be the preferred method of screening. For example, antennas disguised to resemble rural, pastoral architecture (e.g. windmills, water towers) or other features (e.g. trees) may blend more naturally with the surrounding character of some rural areas. In addition, we encourage the use of *existing* vegetation as a screening technique, rather than introduce new landscaping which may detract from the natural character of the area.

3. Include conditions of approval which require the applicant to remove all obsolete or unused portions of the facility and related equipment, fencing, etc., and restore any graded or disturbed areas (e.g. equipment storage area, access road) immediately thereafter.

Once again, thank you for the opportunity to comment on this topic. While we have attempted to address major concerns at this time, other issues may arise in the review of individual project proposals. If you have further questions or concerns regarding this matter, please contact me at (831) 427-4863.

Sincerely,

Renee Brooke

Renee Brooke
Coastal Program Analyst
Central Coast District Office

Cc: Lauren Lajoie, Morro Group, Inc.
Pat Beck, SLO County Planning & Building Dept.
James Caruso, SLO County Planning & Building Dept.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

Th 5b

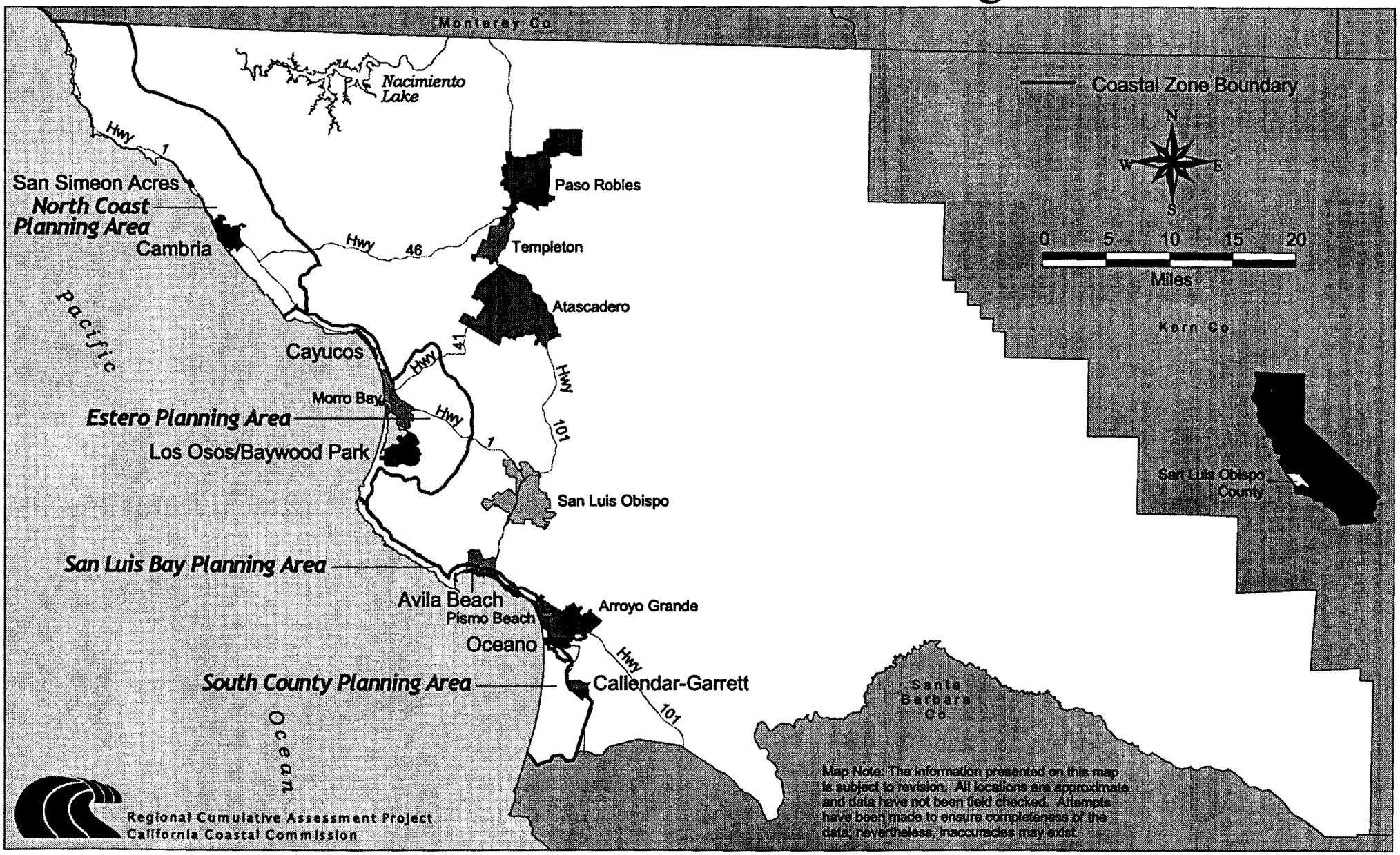
PRELIMINARY REPORT
PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY CERTIFIED LOCAL COASTAL PROGRAM

APPENDIX B: MAPS CITED IN REPORT

CALIFORNIA COASTAL COMMISSION
FEBRUARY 2, 2001

San Luis Obispo County
Periodic Review

San Luis Obispo County Communities and Coastal Planning Areas

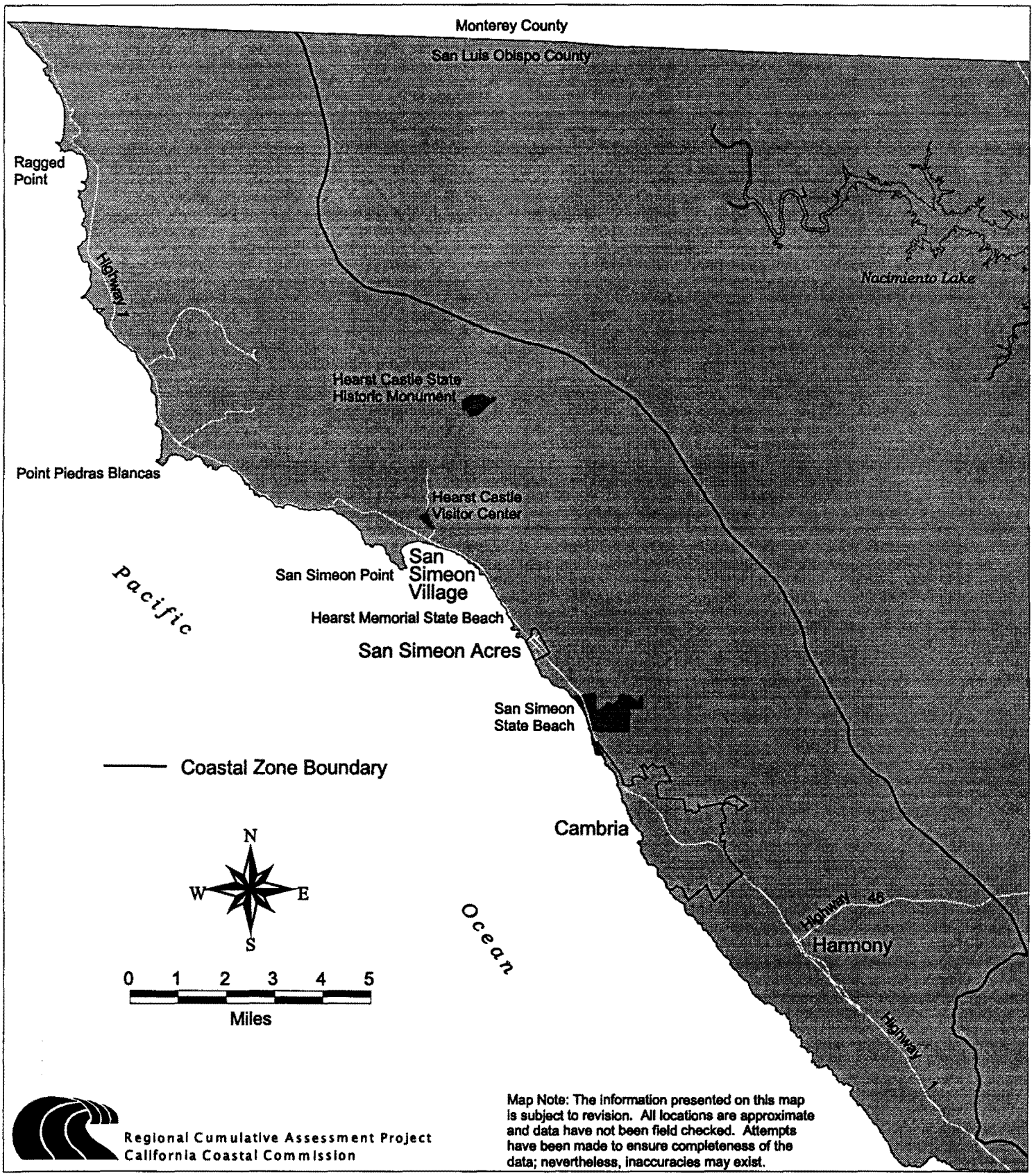


Map 1-A

Map 2-A

San Luis Obispo County
Periodic Review

North Coast Development Nodes

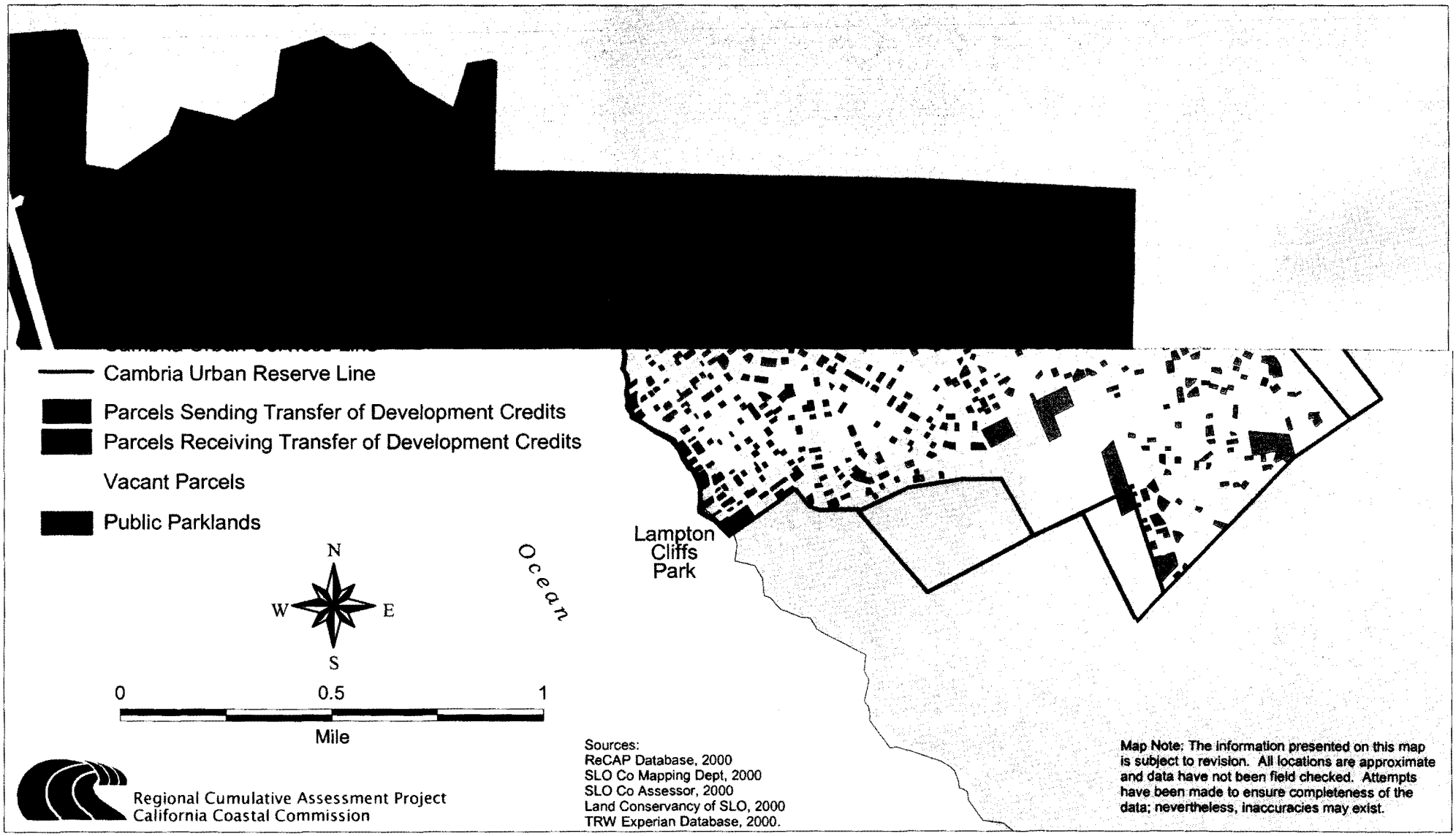


Regional Cumulative Assessment Project
California Coastal Commission

Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.

San Luis Obispo County
Periodic Review

Development Trends, 1988-2001
Cambria Urban Area

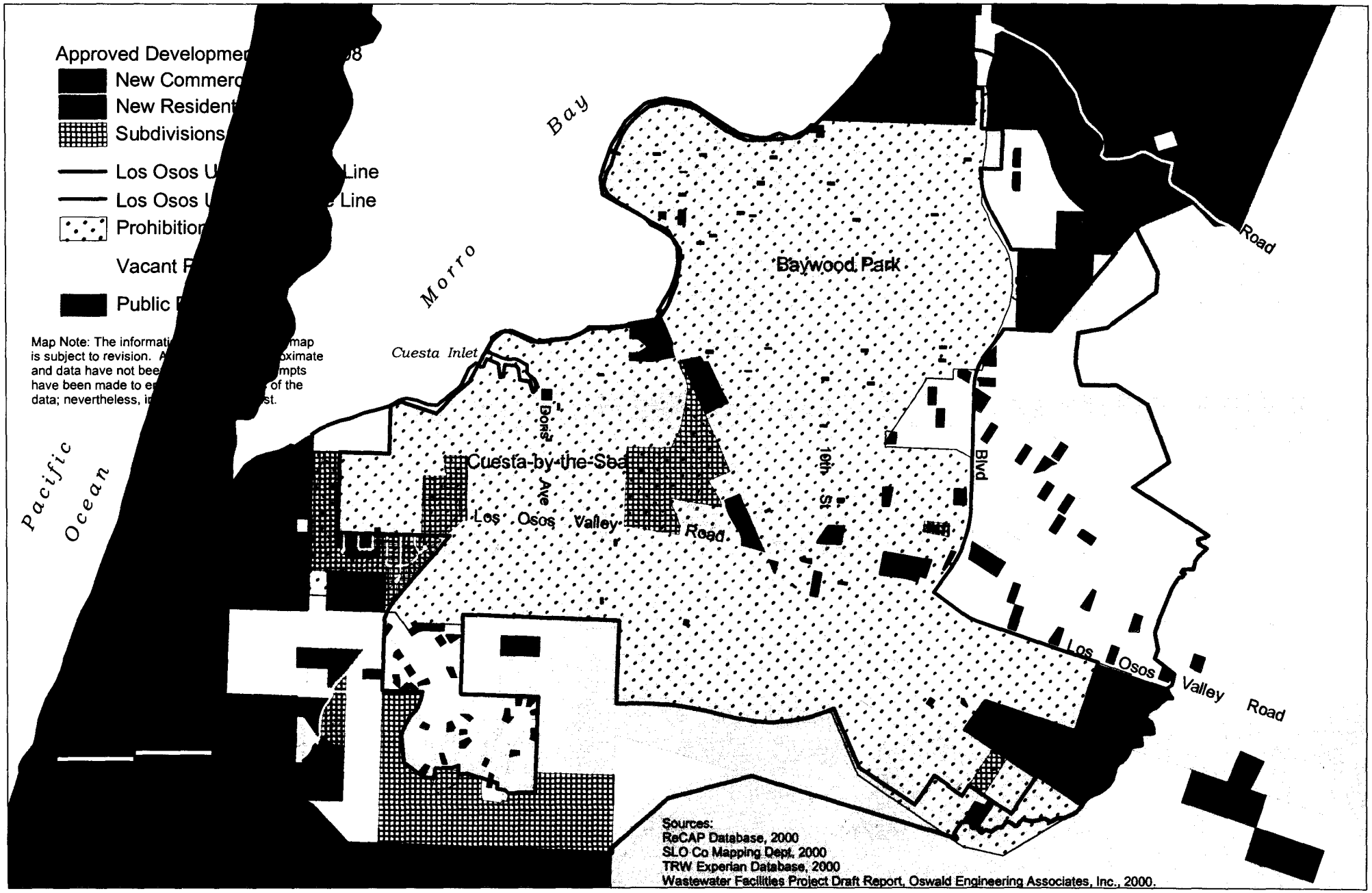


Map 2-B

San Luis Obispo County
Periodic Review

Development Trends, 1988-1998

Los Osos Urban Area



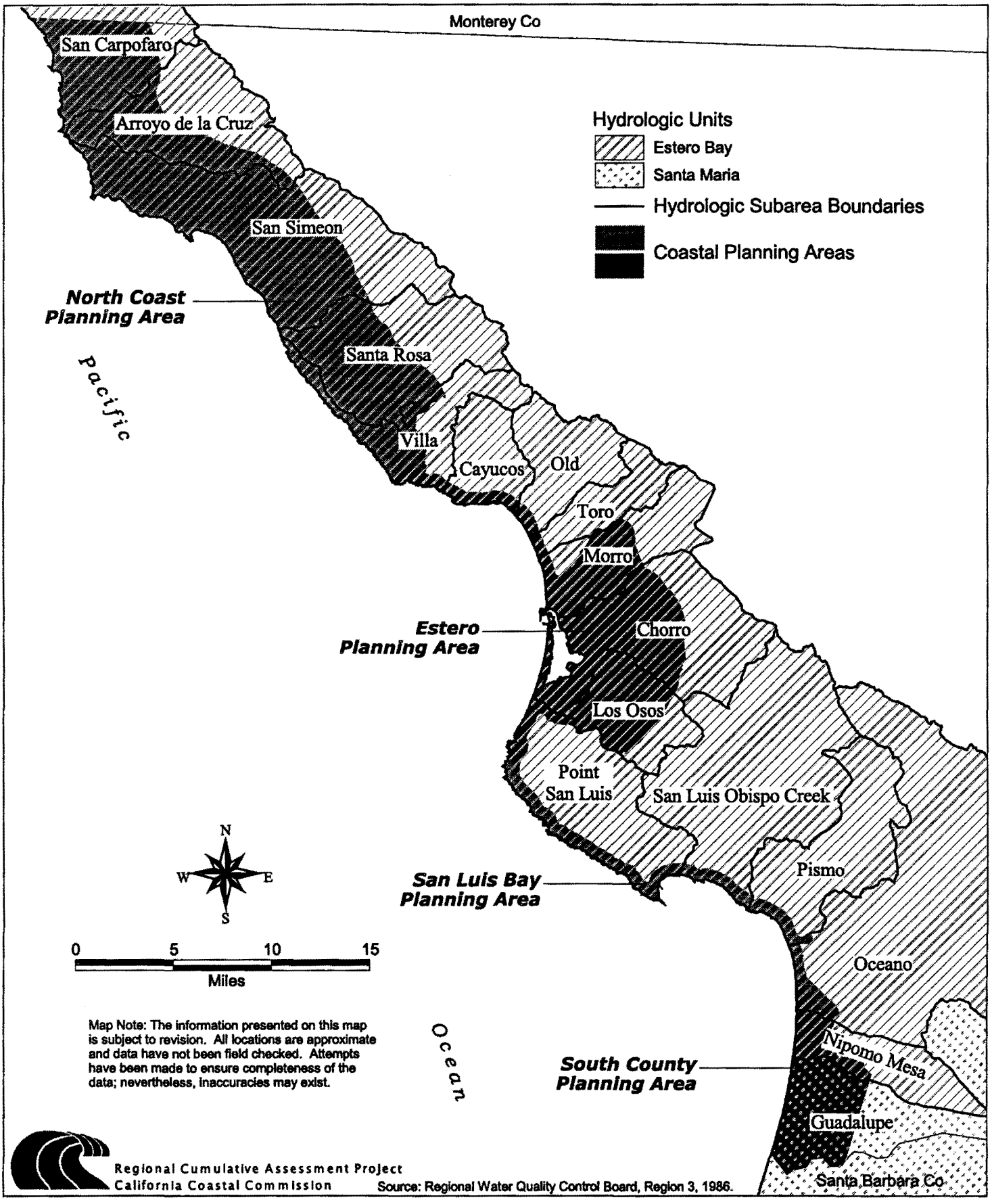
Map 2-C

San Luis Obispo County
Periodic Review

Map 3-A

Coastal Watersheds

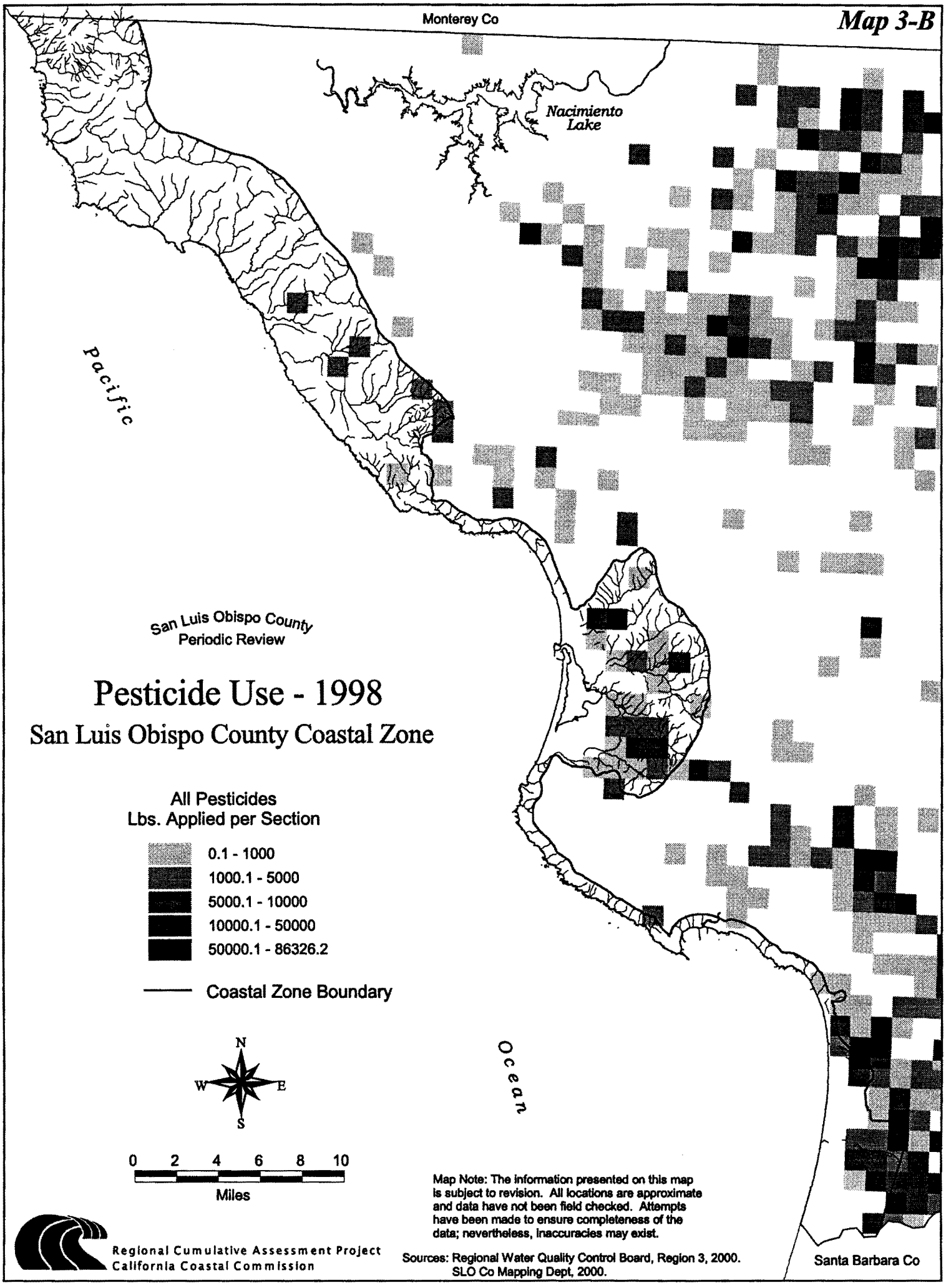
San Luis Obispo County



Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.

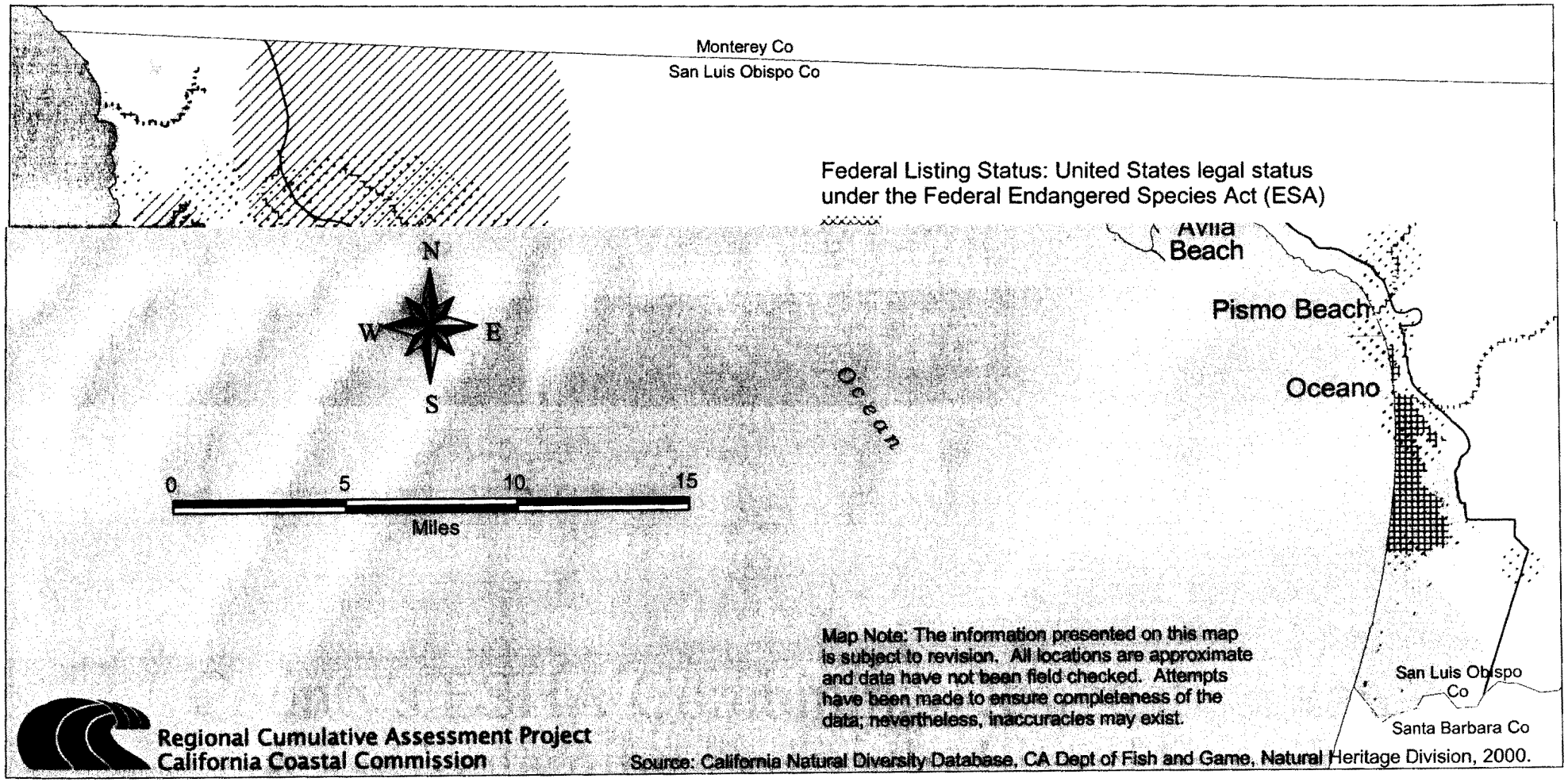
Regional Cumulative Assessment Project
California Coastal Commission

Source: Regional Water Quality Control Board, Region 3, 1986.


Map 3-B
Monterey Co
Nacimiento Lake
Pacific
Ocean
San Luis Obispo County
Periodic Review
Pesticide Use - 1998
San Luis Obispo County Coastal Zone
All Pesticides
Lbs. Applied per Section
0.1 - 1000
1000.1 - 5000
5000.1 - 10000
10000.1 - 50000
50000.1 - 86326.2
Coastal Zone Boundary
N
W
E
S
0 2 4 6 8 10
Miles
Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.
Regional Cumulative Assessment Project
California Coastal Commission
Sources: Regional Water Quality Control Board, Region 3, 2000.
SLO Co Mapping Dept, 2000.
Santa Barbara Co

San Luis Obispo County
Periodic Review

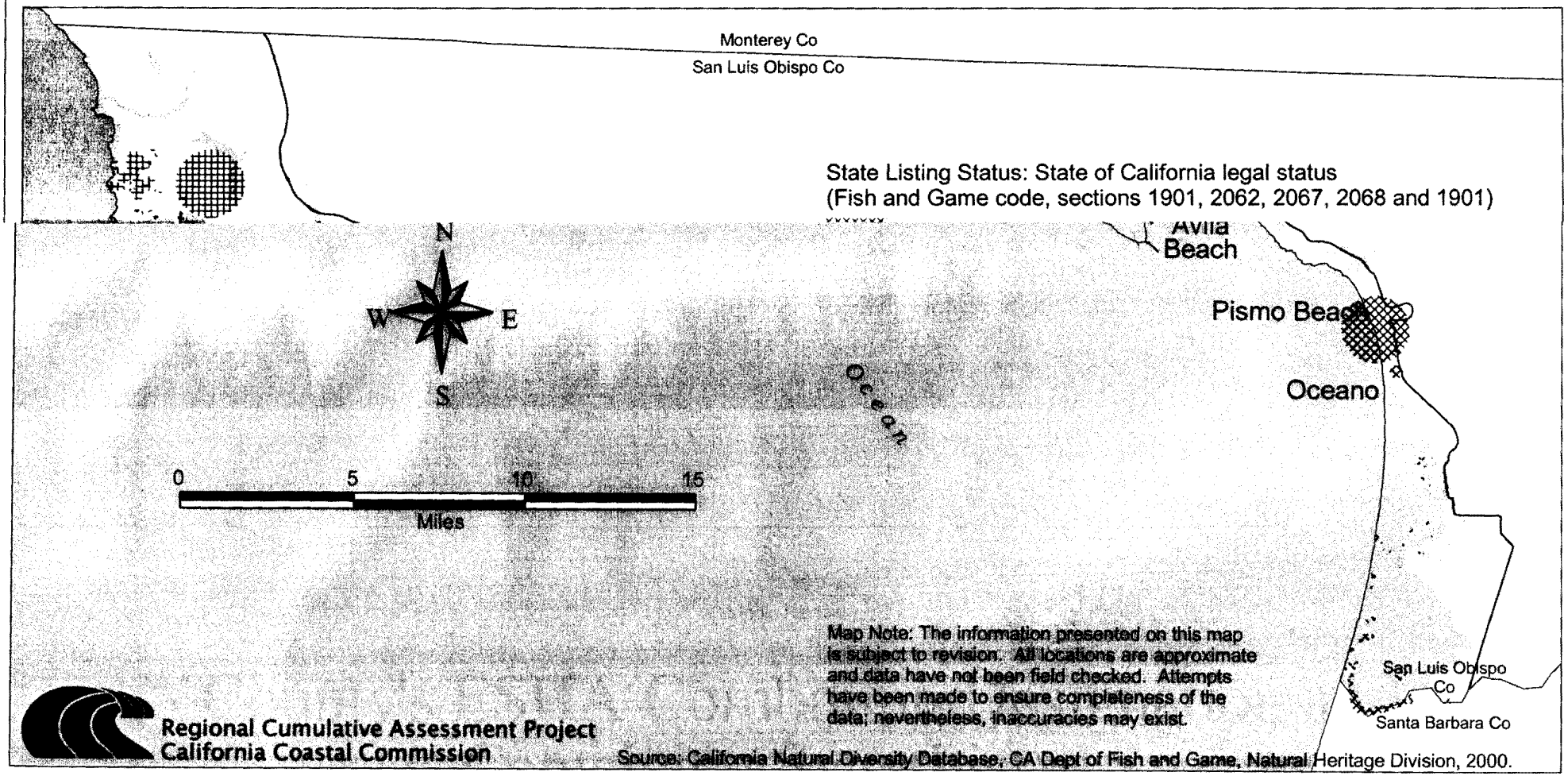
County's ESHA Combining Designation and Areas Containing Federally-Listed Species



Map 4-A

San Luis Obispo County
Periodic Review

County's ESHA Combining Designation and Areas Containing State Listed Species



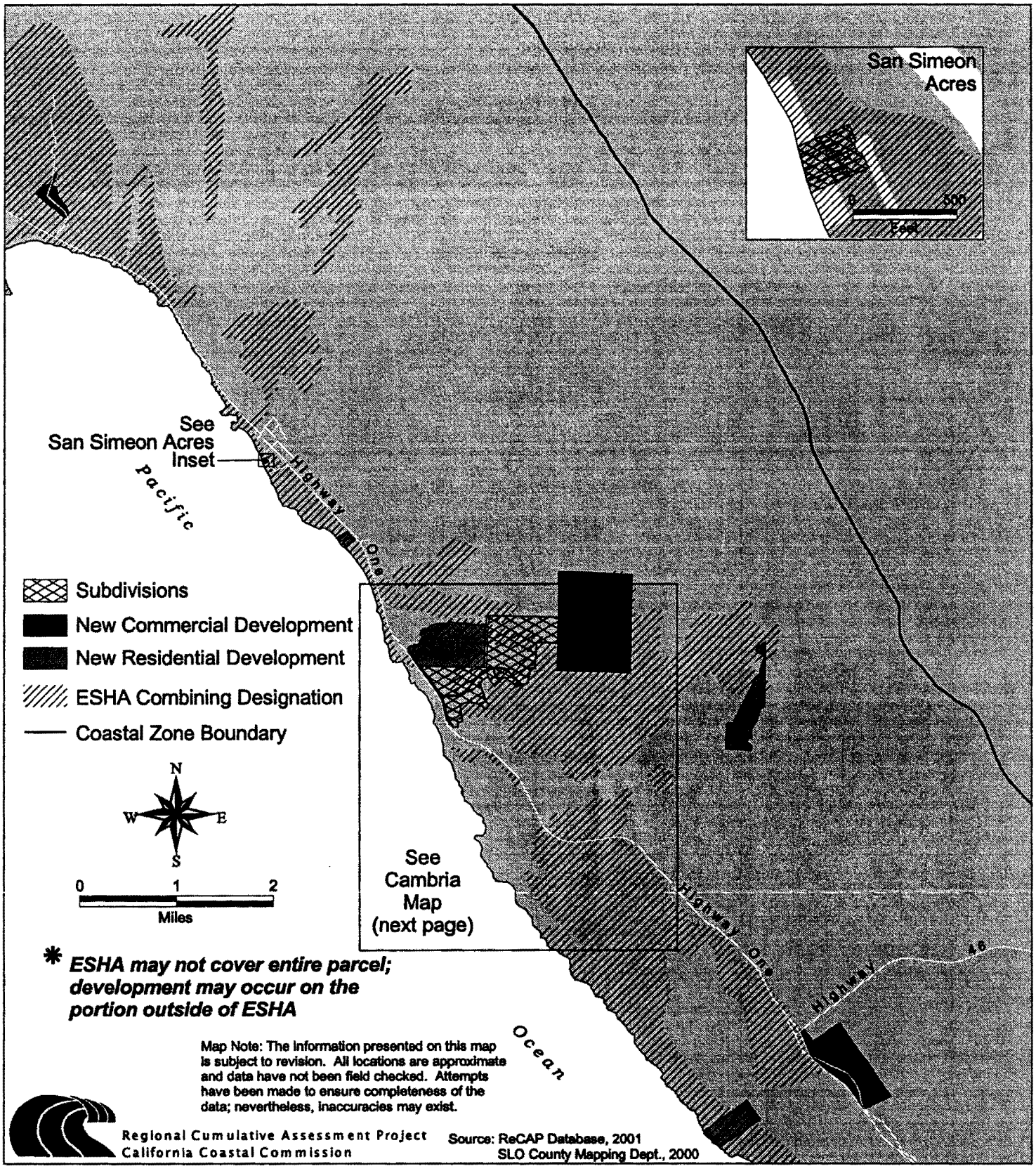
Map 4-B

San Luis Obispo County
Periodic Review

Approved Development in LCP Mapped ESHA*

Rural North Coast

1988-1998



* ***ESHA may not cover entire parcel; development may occur on the portion outside of ESHA***

Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.

Regional Cumulative Assessment Project
California Coastal Commission

Source: ReCAP Database, 2001
SLO County Mapping Dept., 2000

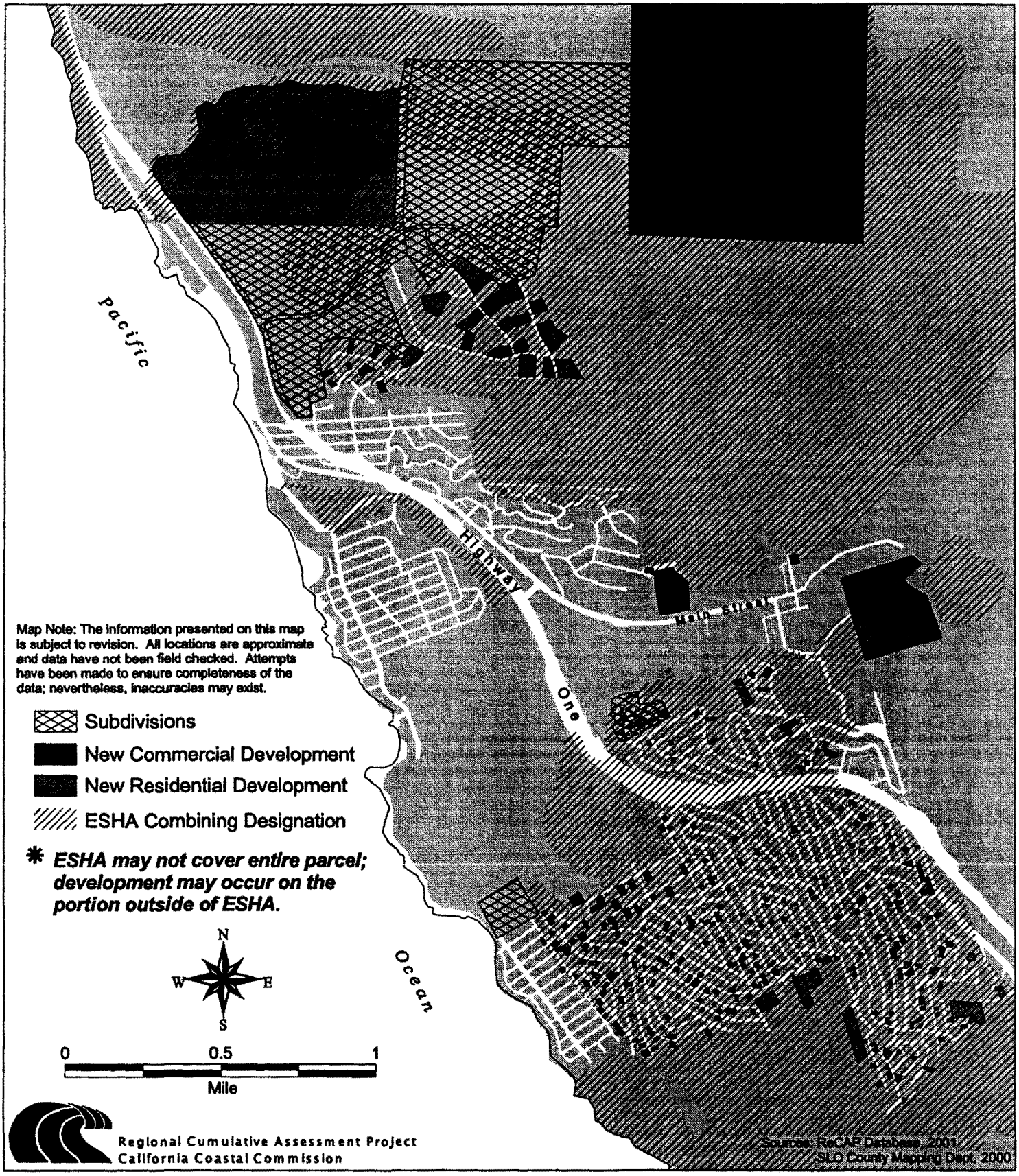
Map 4-D

San Luis Obispo County
Periodic Review

Approved Development in LCP Mapped ESHA*

Cambria

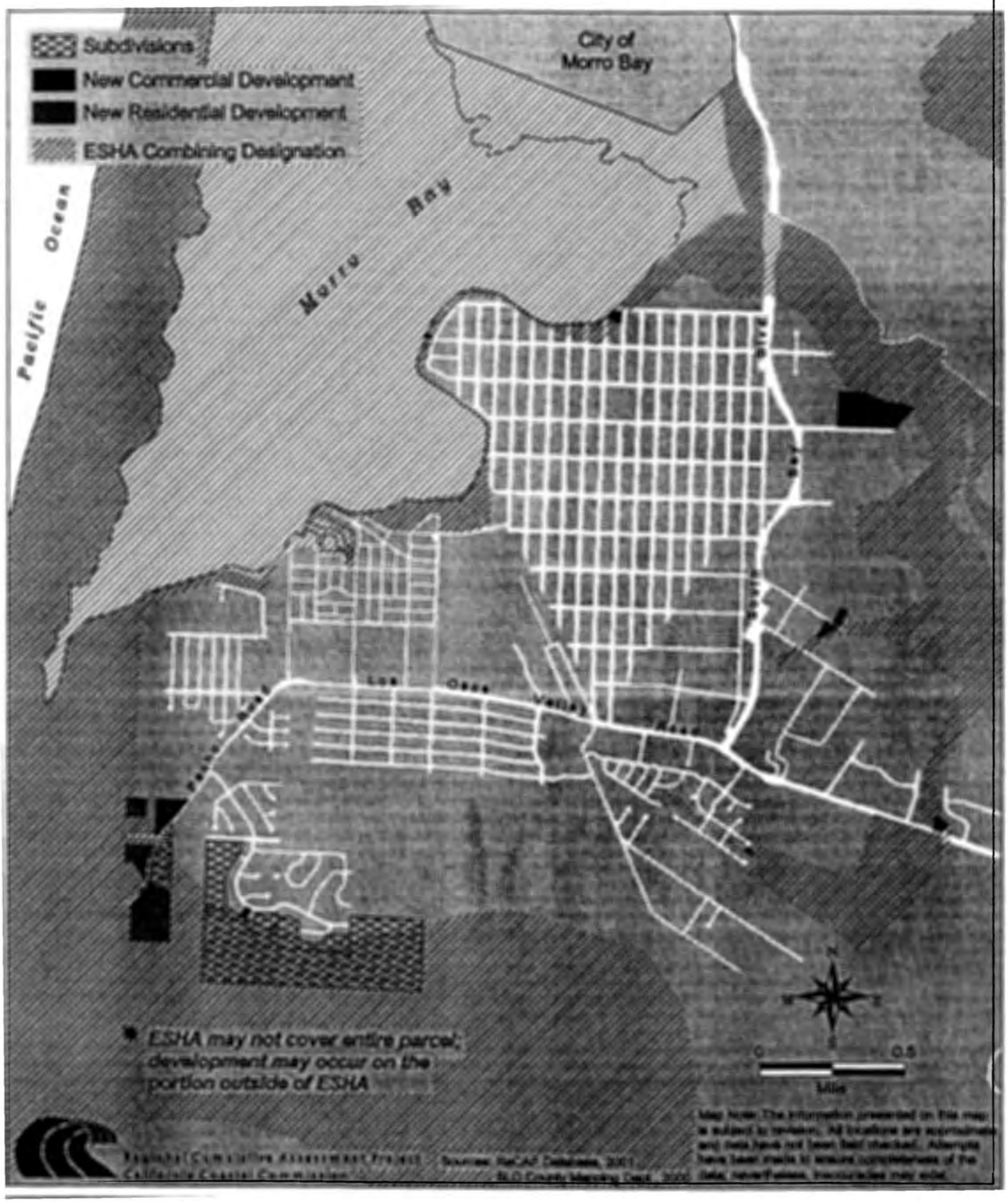
1988-1998



San Luis Obispo County
Periodic Review

Approved Development in LCP Mapped ESHA*

Los Osos
1988-1998

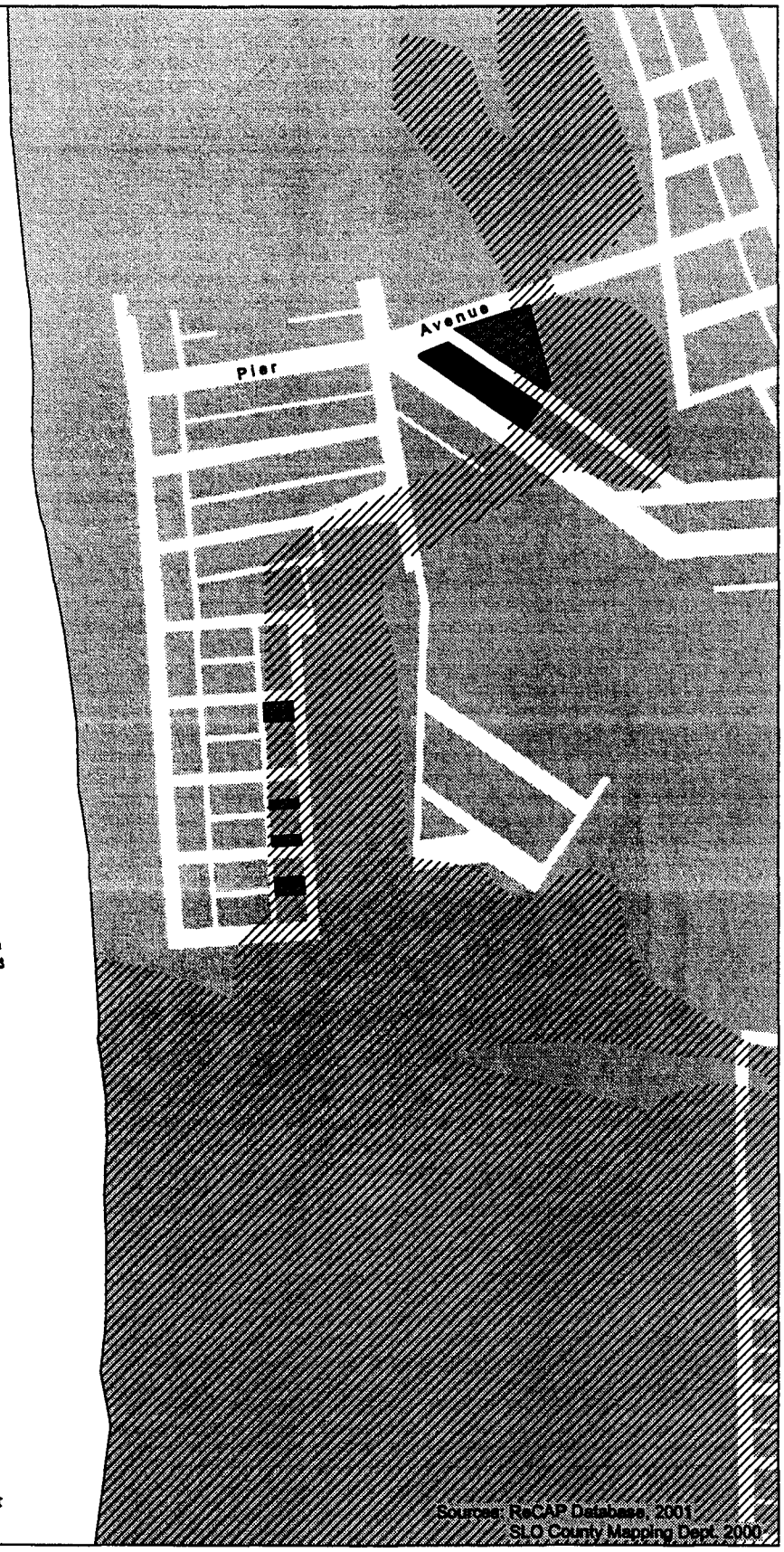


Map 4-F

San Luis Obispo County
Periodic Review

Approved Development in LCP Mapped ESHA *

Oceano
1988-1998



Subdivisions
New Commercial Development
New Residential Development
ESHA Combining Designation

N
W E
S

0 0.2
Mile

* ***ESHA may not cover entire parcel; development may occur on the portion outside of ESHA***

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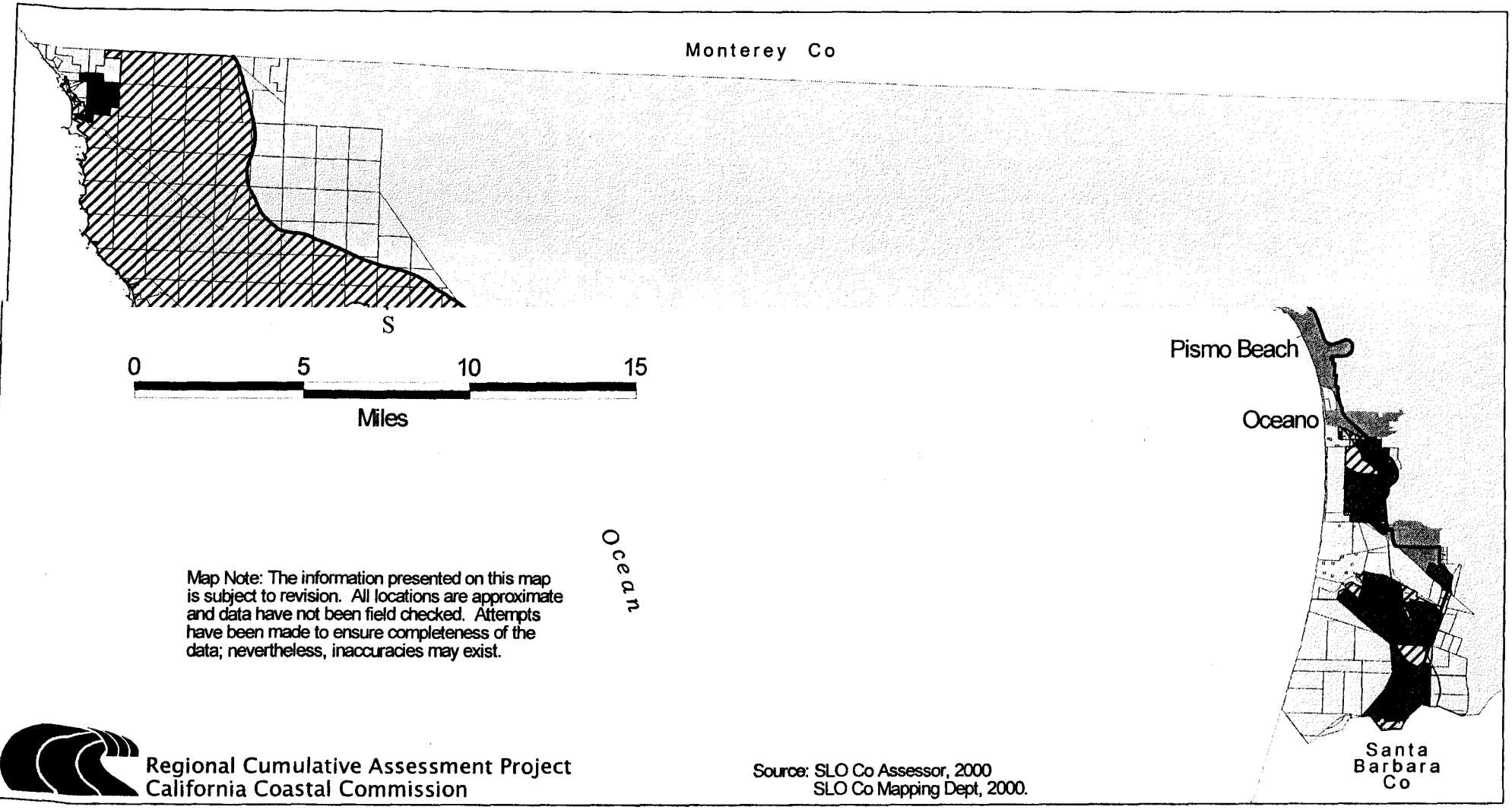
Regional Cumulative Assessment Project
California Coastal Commission

Sources: ReCAP Database, 2001
SLO County Mapping Dept. 2000

San Luis Obispo County
Periodic Review

Agricultural Lands Under Williamson Act Contract 2000



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Regional Cumulative Assessment Project
California Coastal Commission

Source: SLO Co Assessor, 2000
SLO Co Mapping Dept, 2000.

Map 5-A