

CALIFORNIA COASTAL COMMISSION

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Th. 5b

To: Commissioners
and Interested Parties

Date: October 22, 2003

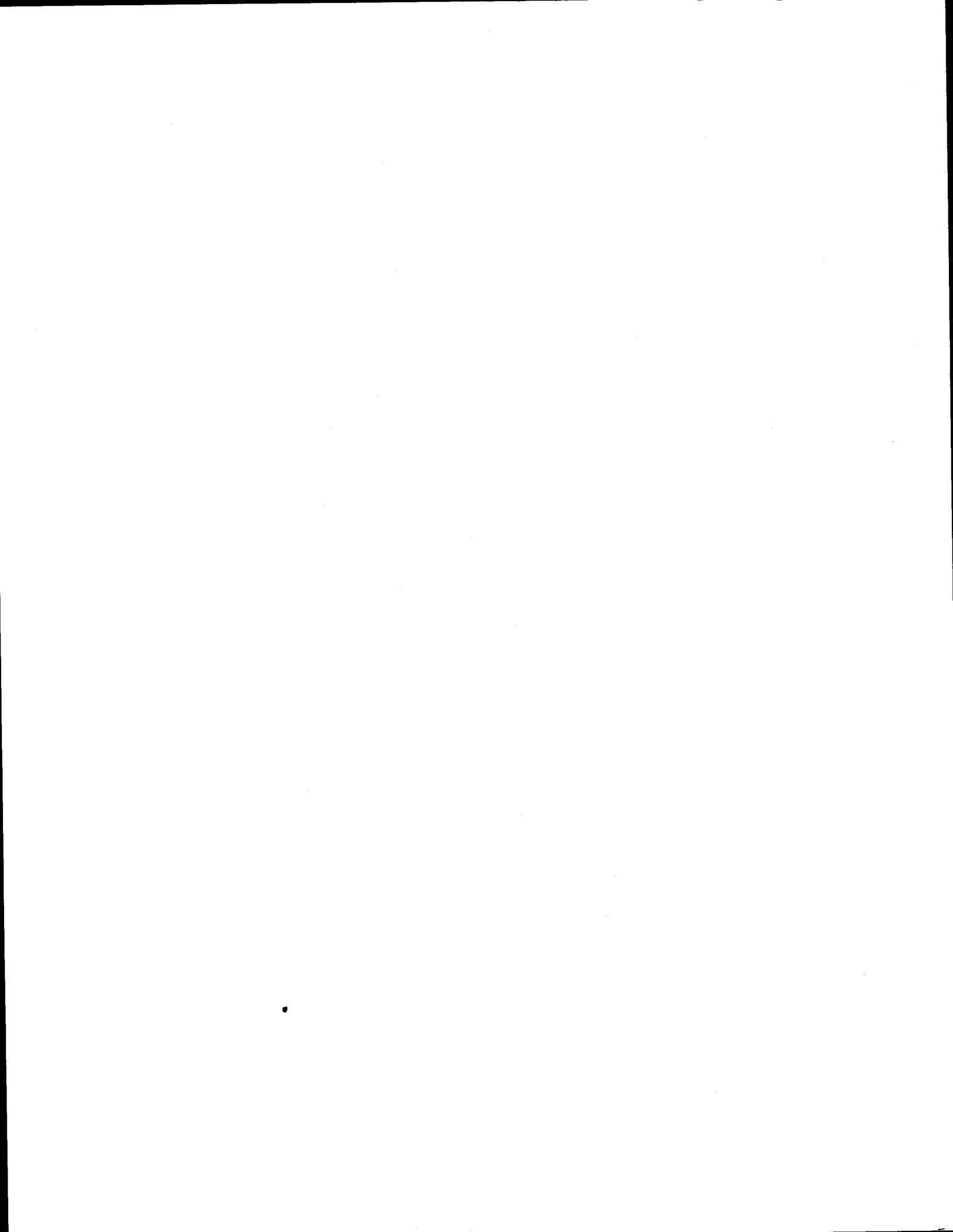
From: Staff

Subject: Revisions to suggested modifications for County of Santa Barbara Local Coastal Program Amendment (LCPA) No. MAJ-3-02 (Toro Canyon Planning Area) scheduled for Commission action on Thursday, Nov. 6th as agenda item #5b

Commission staff prepared an initial staff report dated September 24, 2003 for County of Santa Barbara LCPA No. MAJ-3-02 that involves the Toro Canyon Planning Area. This was done in preparation for a hearing on the LCPA scheduled for October 8, 2003. That hearing was held with Commission action continued until the November Commission hearing. Based on testimony by the County of Santa Barbara, letters and comments from the public and discussion by the Commission at the October hearing, staff has prepared a revised set of suggested modifications for Commission consideration and possible adoption. Pursuant to Section 30517 of the Public Resources Code, the Commission must take action on this LCPA at the November hearing. The revised set of suggested modifications are contained in the staff report dated October 22, 2003. For purposes of review, staff has included both the revised set of suggested modifications and the initial staff report; however, it is the motions and revised suggested modifications in the October 22, 2003 document that staff recommends the Commission adopt.

While much of the findings contained in the initial September 24th staff report still apply (such as findings for ESHA, steep slopes and public access), and while the findings dealing with water quality have already been revised to reflect the revisions made to the water quality suggested modifications, it is staff's intent to return at a subsequent Commission hearing with a revised set of findings following Commission action on the LCPA.

The approach that staff took in preparing the revised suggested modifications in the October 22nd staff report was to concentrate on those Coastal Act issues of major concern. Those issues include: protection of environmentally sensitive habitat; protection of slopes greater than 30% from grading/landform alteration and removal of native vegetation; provisions for public access and visitor serving uses; shoreline development; water quality and preservation of agriculture. Staff is no longer recommending many of the suggested modifications that were contained in the September 24th staff report and which were drafted with the intent of providing guidance to the County for a future comprehensive LCP update. However, the suggested modifications that staff continues to recommend in the October 22nd document are those that staff considers absolutely necessary for the LCPA to be found in conformance with Chapter 3 policies of the California Coastal Act.



CALIFORNIA COASTAL COMMISSION

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RECORD MANAGEMENT DIVISION

DATE: October 22, 2003

TO: Commissioners and Interested Persons

FROM: Charles Damm, Senior Deputy Director
Gary Timm, District Manager
Melanie Hale, Supervisor, Planning and Regulation
Shana Gray, Coastal Program Analyst

SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02 (Toro Canyon Planning Area) for Public Hearing and Commission Action at the Thursday, November 6, 2003 Commission Meeting in San Pedro.

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the Land Use Plan and Implementation Plan portions of its certified Local Coastal Program (LCP) to designate the Toro Canyon Planning Area (hereafter "Toro Canyon"); add associated Toro Canyon goals, policies, actions, and development standards as described in the Toro Canyon Plan (hereafter "Plan"); and adopt implementing zoning district and overlay maps. Toro Canyon is located in southeastern Santa Barbara County, in the western portion of the Carpinteria Valley between the Santa Ynez Mountains and the Santa Barbara Channel. The amendment will result in changes to the certified Santa Barbara Coastal Land Use Plan (hereafter referred to as the LUP/CP) and to the certified Santa Barbara County Coastal Zoning Ordinance (hereafter referred to as the IP/CZO).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing, **deny** the amendment to the certified LCP as submitted; then **approve, only if modified** as revised by the suggested modifications. As submitted the Land Use Plan and Coastal Zoning Ordinance amendments are inconsistent with various policies in Chapter Three of the Coastal Act pertaining to land use, agriculture, hazards, public access, visual resources and protection of coastal waters and environmentally sensitive habitat areas. As modified the amendment is consistent with Chapter Three of the Coastal Act. The motions to accomplish this recommendation begin on **page 8**. The suggested modifications begin on **page 10**.

STAFF NOTE

This LCP amendment was presented to the Commission at the October 8, 2003 hearing. The application was continued at this hearing due to concerns raised by the Commission regarding the level of detail of the Commission staff review and the ability of the County staff and public to digest the extensive recommended changes. At the Commission's request, this item has been rescheduled to be heard at the Commission's November hearing in San Pedro. The one-year time extension expires November 27, 2003 and **therefore the Commission must act upon the subject LCP amendment at the November hearing.**

Staff has prepared a revised document based upon the Commission's recommendation at the October hearing to work with the County to focus changes and reduce the total number of suggested modifications to only the key resource issues. Commission staff met with the County Planning staff on October 16 and 21, 2003 to discuss the bulk of the resource issues. Though the Commission staff has made a considerable effort to reorganize, consolidate, and reduce the number of suggested modifications, the County staff has indicated that they believe modifications are not necessary.

Additionally, the Commission's Water Quality Unit met separately with appropriate County staff to develop an alternative approach to apply appropriate water quality provisions given that the County is seeking the approval of a Storm Water Management Program through the Regional Water Quality Control Board and submitted the draft Plan to the RWQCB in August 2003.

Because the changes in the staff recommendation reflect a consolidation and general reduction in suggested modifications and the overarching topics remain the same, staff notes that the findings in the September 24, 2003 report for the general resource sections (LCP Organization and Implementation, Scenic and Visual, Hazards, Watershed Protection, Agriculture, ESH, Public Access and Land Use) are adequate to support the revised recommendation. Therefore, the September 24, 2003 staff report and addendums are attached to this staff report and provide the findings for the revised staff recommendation, with one exception. The water quality findings are included in this report due to the change in approach to water quality recommendation. Staff recognizes that revised findings will be necessary based upon the Commission's final action at the November hearing.

Approximately 2,150 acres are situated within the coastal zone portion of the Toro Canyon Area Plan. While this area is clearly only one small portion of the County's total land within the coastal zone, it is similar to the size of coastal zone jurisdictions of the neighboring Cities of Carpinteria (1,521 acres) and Santa Barbara (2,669 acres) and equal in its need for protection under the Coastal Act. The Commission has in the past, encouraged a more detailed review of comprehensive updates and LCP amendments. In this case, Santa Barbara County has submitted an area plan LCP amendment for one portion of its area within the coastal zone. The County does not anticipate an update of the existing Countywide LCP (certified in 1982) in the foreseeable future, and has historically

submitted individual Area Plans to the Commission for the geographic subareas within its jurisdiction.

The Toro Canyon area provides a predominantly rural environment with significant agricultural development, including greenhouses, and pockets of residential development. Even with the significant development that has occurred, it is evident from reviewing aerial photographs of the area (see Exhibit 16) that there are still significant natural resources remaining in the area such as continuous Southern Coast Live Oak Forest along Toro Canyon Creek and the native chaparral community remaining on the steep slopes leading up to Paredon Ridge. It is also evident that Santa Barbara County, similar to many coastal communities throughout California, faces increasing development pressure for residential and agricultural growth. Toro Canyon is no exception. Agriculture has historically resulted in the removal of vegetation that would by today's standards be considered ESH, in some cases lies adjacent to major creek corridors, and has moved ever farther up onto steeper slopes such as orchards on 30% slopes. The residential pressures are equally as strong. The rural location and larger parcels sizes are ideal for increasing mansionization, with proposals for large-scale residential developments that may include a host of accessory uses (sports courts, caretaker residence, art studio, etc.) and a primary residence of immense proportions (up to 20,000 sq. ft.). This type of residential development is particularly detrimental to the long-term viability of agriculture when such extensive residential compounds are developed on agricultural parcels. Over time, as each parcel gets developed with larger and more residential development, the agricultural potential is reduced.

As recognized by the County through this effort, the Toro Canyon area is constrained and cannot support development pressures of this nature. As a result, the County is proposing the downzoning of many agricultural parcels and has provided a host of additional policies in the Toro Canyon Plan. Staff recognizes that the County and local public participants have invested considerable time and effort to develop the Toro Canyon Plan, which in many instances may provide additional protection. While this has been successful in many instances, there have also been areas of compromise which serve to lessen the protection afforded under the existing LCP (e.g., ESH) and which create some ambiguity as to the implementation of the Toro Canyon Plan requirements (e.g., reasonable use language). Conversely, the Coastal Act requires a level of specificity that provides predictable implementation and an identifiable outcome, consistent with the Chapter Three policies of the Coastal Act.

For the above reasons, Commission staff continues to recommend significant, albeit reduced, changes to the Toro Canyon Plan that protect coastal resources consistent with the Chapter Three policies of the Coastal Act. The main topics addressed in the revised modifications include water quality and watershed protection, land use, agriculture, environmentally sensitive habitat areas, flood control, public access and shoreline protection.

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LIST OF EXHIBITS

- Exhibit 1.** County Resolution 02-065 for Submittal of LCP Amendment
- Exhibit 2.** County Resolution 02-062 for Proposed LUP/CP Amendments
- Exhibit 3.** Proposed Zoning Ordinance Amendments (Ordinance No. 4448)
- Exhibit 4.** Proposed Zoning Map Amendments (Ordinance No. 4449)
- Exhibit 5.** ESH Map Changes Butterfly (As Suggested in Modification No. 43) and Kelp (As Suggested in Modification No. 43)
- Exhibit 6.** ESH Map Changes Wetland (As Suggested in Modification No. 43) and Monarch Butterfly (As Suggested in Modification No. 43)
- Exhibit 7.** Urban / Rural Boundary Maps
- Exhibit 8.** Toro Canyon Plan ESH Map
- Exhibit 9.** Toro Canyon Plan Steep Slopes Map
- Exhibit 10.** Correspondence Dr. Meade to County Staff
- Exhibit 11.** Correspondence Coastal Commission to County Staff
- Exhibit 12.** Agriculture Viability Report
- Exhibit 13.** Memo from Dr. John Dixon Regarding ESHA
- Exhibit 14.** Aerial Photograph of Torito Road Rural Neighborhood and Proposed Agriculture Conversion Parcels
- Exhibit 15.** ESHA Map enlargement of Torito Road Rural Neighborhood
- Exhibit 16.** Toro Canyon Plan Coastal Zone Aerial Photograph
- Exhibit 17.** Policies Excluded From Certification

LIST OF ATTACHMENTS

Attachment A. Toro Canyon Plan

Available Online at:

http://countyofsb.org/plandev/comp/planareas/toro/pc_recommended_plan/plancover.html

Attachment B. Commission staff report dated September 24, 2003 & Addendum

Attachment C. County of Santa Barbara Draft Stormwater Management Program, dated August 8, 2003

Available Online at: www.countyofsb.org/project_cleanwater

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30513(c))

The Coastal Act further provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)

The standard of review that the Commission uses in reviewing the adequacy of the land use plan is whether the land use plan is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County held 25 public hearings and two public workshops and received written comments regarding the project from concerned parties and members of the public. The hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of the California Code of Regulations, the County resolution for submittal may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested

modifications by the Commission, if the Commission approves this Amendment, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (Section 13544.5; Section 13537 by reference;). Pursuant to Section 13544, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission **CERTIFY** Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan, as submitted by the County of Santa Barbara.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission **CERTIFY** Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan, if modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY IF MODIFIED:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY THE LAND USE PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

**III. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS
ON THE IMPLEMENTATION PLAN/COASTAL ZONING
ORDINANCE (IP/CZO)**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION III: *I move that the Commission reject the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 and adopts the findings set

forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION IV: *I move that the Commission certify County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

IV. INTRODUCTION TO SUGGESTED MODIFICATIONS

Suggested Modifications: The staff recommends the Commission certify the following, with modifications as shown below. Language as submitted by the County of Santa Barbara is shown in straight type. Language recommended by Commission staff to be ~~deleted~~ is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Suggested modifications to revise maps or figures, or other instructional changes are shown in italics. Text *not* intended to be included as part of the modification which provides an internal reference or other orienting information is shown in [brackets].

Commission Review of Narrative Text: The Toro Canyon Plan amendment can be divided into two major categories. The first is narrative, which describes the Toro Canyon Plan Area, special issues with the Toro Canyon Plan Area, and the general basis for the various standards and policies contained in the Toro Canyon Plan amendment. The second consists

of the actual standards and policies. It is this second division which is the focus of Commission review.

The proposed Toro Canyon Plan LCP amendment contains four levels of policy, titled "goals," "policies," "actions," and "development standards." All four of these levels are to be considered enforceable policies. Therefore, the standard of review for the County in permitting development under the LCP will be all goals, actions, policies, and development standards (as well as other implementing actions), with the exception of those listed in Exhibit 17. Any policies or map language designated as non-coastal are issues that are not addressed under the Coastal Act or are specific to areas outside of the Coastal Zone, and therefore are excluded from the certification of the LCP Amendment. For that reason, those policies are not analyzed as part of this submission.

Revisions to the policies, made through suggested modifications, in certain circumstances may make the background narrative obsolete. Descriptive narrative no longer consistent with the policies will need to be revised by the County to conform to the narrative of any associated policy that has been revised through suggested modifications as part of the submission of the final document for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Organizational Notes: The addition of new policies or the deletion of policies (as submitted) will affect the numbering of subsequent policies, actions, or development standards when the County of Santa Barbara publishes the final Toro Canyon Plan incorporating the Commission's suggested modifications. This staff report will **not** make revisions to the policy numbers. The County will make modifications to the numbering system when it prepares the revised LCP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Global Text Suggested Modification: As submitted, the Toro Canyon Plan contained supportive narrative describing the basis for many policies. Some of these policies have been modified as a result of this Commission action. Consequently, the corresponding supportive narrative may no longer be relevant for supporting modified policies. The Commission empowers the County with the approval of the Executive Director to revise supportive narrative so that it will be consistent with the policies of the LCP amendment as modified through the suggested modifications. Since this policy refers to a global text revision, once the global text revisions are made, this policy does not need to be included in the amended Toro Canyon Plan. The modified narratives, however, must be approved by the Executive Director and reported to the Commission before taking effect.

NOTE: (1) The number(s) in brackets listed in each suggested modification heading, below, correspond to the previous/similar modification number(s) in the September 24, 2003 staff report. In many cases, the new modifications do not mirror the original suggested modifications and have been subsequently revised, reorganized, and/or reduced. (2) The text in parenthesis listed in each modification heading below indicates the policy, development standard, or action number as identified in the Toro Canyon Plan. If the suggested modification does not relate to an existing provision of the Toro Canyon Plan, the text denotes whether the proposed language is a policy or development standard and where such will be located within the document.

V. SUGGESTED MODIFICATIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

1. General Provisions (GOAL LUG-TC) [2]

All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan. Consistent with LUP Policy 1-2, should any policy or provision of the Toro Canyon Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail. Consistent with LUP Policy 1-3, where the policies or provisions of the certified Toro Canyon Plan conflict with any other policy or provision of the County's Comprehensive Plan or other guiding standards, the Local Coastal Program shall prevail.

2. General Provisions (Policy LUG-TC-1) [3]

The Development Standards and Actions contained within this Plan shall be used to implement the policies of the Plan and ~~Where appropriate, these standards shall be applied to projects under review, unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.~~

3. General Provisions (New Policy under LUG) [4]

In addition to the requirements of LUP Policy 2-11, development shall be scaled, sited and designed to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of roads and driveways; number and size of accessory structures; configuration and size of development envelopes including concentrating development in existing developed areas; amount and location of grading; vegetation removal; and night lighting.

4. General Provisions (New Policy under LUG) [5]

Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.

5. Reasonable Use (Policy LUG-TC-4; Policy LUG-TC-6) [7, 8, in part]

a. Land Use and Zoning designations shall provide for reasonable use and development of property within given site constraints. Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically states/provides an exemption for "reasonable use of property," the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.

b. The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable

law. Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically provide an exemption for "reasonable use of property," similarly the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.

6. Non-Conforming Structures (New Policy under LUG) [9]

Existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below and in Policy BIO-TC-5 and DevStd BIO-TC-5.1 through 5.6 [cross reference to LUP Modification 26], additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.

7. Certificates of Compliance (New Policy under LUG) [10]

Conditional Certificates of Compliance, or Certificates of Compliance issued for land divisions that occurred after the Coastal Act, shall require a coastal development permit appealable to the Coastal Commission.

8. Land Divisions (New Policy under LUG) [84, 124, 129, 130, 139]

Land divisions within the coastal zone, including lot line adjustments, shall be prohibited unless all proposed parcels:

(1) Can be demonstrated to be safe from erosion, flood, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.

(2) Can be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.

(3) Can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 100 year life of the development.

(4) Would not result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% and shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.

9. Prime Soils (New Policy under LUA) [17]

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

10. Fuel Modification (DevStd FIRE-TC-2.2) [20]

a. Development shall be sited to minimize exposure to fire hazards and reduce the need for grading, fuel modification (including thinning of vegetation and limbing of trees), and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).

11. Public Access Santa Claus Lane (Action PRT-TC-1.4) [22, 29]

The County shall pursue public access to the beach from Santa Claus Lane. Public beach access shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; by clarifying the status of lateral beach access rights, or by securing any easements that may be necessary and appropriate;. In addition, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, developing one or more parking areas (also see Action CIRC-TC-4.3); constructing appropriate safety features; and installing appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 12]. any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date. Permits for new development shall include conditions that incorporate measures that provide or protect access where there is substantial evidence that prescriptive rights exist, or where required for new development.

12. Public Access & New Development (New DevStds under Policy PRT-TC-1) [23, 24, 25, 28]

Public accessways and trails shall be provided in accordance with the following standards:

a. Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway should be opened within 5 years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association acceptable to the County expressly requests ownership of the easement in order to open it to the public, the

easement holder may transfer the easement to that entity. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association acceptable to the County that requests such transfer, if the easement holder has not opened the accessway to the public within 5 years of accepting the offer.

b. Where there is an existing public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use. Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.

c. For all offers to dedicate an easement that are required as a condition of Coastal Development Permit approved by the County, the County has the authority to approve a private association that seeks to accept the offer. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The County may approve any private association acceptable to the County that submits a management plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate the easement.

13. Public Access Padaro Lane (Action PRT-TC-1.3) [26]

Consistent with LUP Policy 7-8, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. The County shall pursue, to the extent feasible, developing public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. The County shall include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer connected sanitation facilities, and other appropriate features for the beach access. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.

14. Circulation (New DevStd under Policy CIRC-TC-1) [34]

Improvements along Route 192/ Foothill Road should be developed in a manner consistent with bicycle and pedestrian safety, and should be designed for improved bicycle access.

15. Water Quality (Policy WW-TC-2; New Policies under WW) [38, 48, 56]

a. ~~Pollution~~ Development shall avoid the introduction of pollutants into of surface, ground and ocean waters shall be avoided. Where avoidance is not feasible, ~~pollution~~ the introduction of pollutants shall be minimized to the maximum extent feasible.

b. Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.

c. Development shall avoid, to the maximum extent feasible, adverse impacts to the biological productivity and quality of coastal streams, wetlands, bays, estuaries, lakes and the ocean. This shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, which is hereby incorporated by reference into this LCP amendment. Any potential updates to the SWMP will be submitted to the CCC on an annual basis as potential LCP amendments.

d. Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner.

16. OSTS (New DevStd under Policy WW-TC-2) [43, 44]

a. Development that includes new OSTS(s) or expansion of existing OSTS(s), with a subsurface sewage effluent dispersal system that is within 100 feet of a beach, shall provide secondary or tertiary effluent treatment prior to discharging to that dispersal system.

b. Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property. Where such development is approved to allow reasonable use of property, it shall provide for secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.

17. ESH Mapping (New DevStds under Policy BIO-TC-1) [78]

Any area mapped, or otherwise identified through historic evidence, as ESH shall not be deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

18. ESH Overlay Delineation (DevStd BIO-TC-1.3) [70]

The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.

The County shall determine the physical extent of habitat meeting the definition of ESH on the project site, based on a site-specific biological study as described in Article II Section 35-194, prepared by a qualified biologist or environmental specialist.

19. ESH Buffers (DevStd BIO-TC-1.4) [72]

Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):

- Southern Coast Live Oak Riparian Forest corridors and streams- 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from the outer edge of the canopy or the top of creek bank¹, whichever is greater. ~~When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy;~~
- Coast Live Oak Forests - 25 feet from edge of canopy;
- Monarch butterfly habitat- minimum 50 feet from any side of the habitat;
- Native grassland, ~~a minimum ¼ acre in size~~ – 25 feet;
- Coastal Sage – minimum 20 feet;
- Scrub oak chaparral – 25 feet from edge of canopy;
- Wetlands – minimum 100 feet; and
- Buffer areas from other types of ESH shall be determined on a case-by case basis. These buffer areas, ~~except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak Riparian Forests and streams~~, may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development ~~and in consultation with~~ other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.

20. ESH & ESH Buffer (New DevStd under Policy BIO-TC-1) [73, 76, 77, 85]

Development in or adjacent to ESH or ESH Buffer shall meet the following standards:

- a. Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.

¹ "Top of creek bank" is identified differently by the Flood Control District for flood control purposes and by Environmental Health Services for the location of septic systems. For the purposes of the habitat protection policies and development standards of this Plan, the "top of creek bank" shall be defined as the recognized geologic top of slope.

b. Public accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESH. Trails shall be sited outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Where seasonal closures occur, alternative trail segments shall be provided where feasible.

c. The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat, shall be prohibited within and adjacent to ESH, where application of such substances would impact the ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the breeding/nesting season of sensitive species that may be affected by the proposed activities, winter season, or when rain is predicted within a week of application.

d. As a condition of approval of new development adjacent to coastal sage scrub and native grassland, the applicant shall plant the associated ESH buffer areas with appropriate locally native plants.

21. ESH Economic Viability Determination (New DevStd under Policy BIO-TC-1) [79, 80]

a. If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat (ESH) area or ESH buffer would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination as required in Article II Section 35-194.

In addition, the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESH or ESH buffer that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on-site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESH and ESH buffer.

b. To evaluate whether a restriction would not provide an economically viable use of property as a result of the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat area or ESH buffer, an applicant must provide the information about resources present on the property that is needed to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.

22. ESH Wetlands (New DevStd under Policy BIO-TC-1) [75]

The drainages ditches on the north side of Padaro Lane and south side of Santa Claus Lane, mapped as Wetland (Not ESH) on the Toro Canyon Plan ESH Overlay Map, which were built to convey floodwaters, shall not be subject to the required wetland buffer and may be maintained by the Flood Control District. Maintenance shall not result in the enlargement, extension, or expansion

of the existing drainage channels, but shall be limited to the removal of vegetation, debris, and sediment buildup.

23. Landscaping/Invasive Species (Policy BIO-TC-2; DevStd BIO-TC-2.2; New DevStd under Policy BIO-TC-2) [81, 82, 83]

a. Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH. All landscaping shall utilize only non-invasive plants.

b. Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall ~~be limited to~~ utilize only non-invasive plants within 500' from the ESH resource (see Appendix H, *List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas*).

c. Habitat restoration and invasive plant eradication may be permitted within ESH and ESH buffer areas if designed to protect and enhance habitat values provided that all activities occur outside of the breeding/nesting season of sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site-specific application with no migration to the surrounding environment.

24. Fuel Modification (DevStd BIO-TC-4.3) [88, 89]

Significant vegetation fuel management² within ESH and ESH buffer areas implemented in association with existing development may be permitted where, subject to a coastal development permit, findings are made that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1). New development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development to the maximum extent feasible and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer.

The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.

25. Agricultural Infrastructure (DevStd BIO-TC-4.4; Move to LUA) [90]

~~In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, t~~The County should ensure that essential infrastructure for existing agricultural production is protected and maintained.

26. ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5) [91, 92, 97]

~~a. Due to the existing land subdivision and built environment in t~~The Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related

landscaped areas are within the ESH buffer and ~~not part of the ESH itself~~, structural additions to the existing primary residence may main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additions shall also comply with development standards in subject to DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34.

b. For existing lawfully constructed primary residences in Existing Developed Rural Neighborhoods residential structures in any zone district and existing agricultural support structures on agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas or adjacent to ESH, structural additions or improvements shall be scaled, sited, and designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to in conformance with the following guidelines-standards: a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance with limited canopy reduction including limbing of oaks and sycamores; b. Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season) and do not extend new areas of fuel modification into ESH areas. b-c. Where the existing structure is located only partially inside an ESH or ESH buffer area, aAdditions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area. If the subject development cannot be located away from ESH, then the extension of a ground level development footprint shall be denied. d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.

c. The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.

27. Stream Modification (Policy BIO-TC-11) [99]

Natural stream channels shall be maintained in an undisturbed state ~~to the maximum extent feasible~~ in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts, except as allowed under Policy FLD-TC- [cross reference to suggested modification 31]. "Hardbank" channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally

~~damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.~~

28. Tree Protection (DevStd BIO-TC-13.1; DevStd BIO-TC-13.2; Policy BIO-TC-14) [102, 103]

a. A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "non-native protected tree" is at least 25 inches in diameter at this height. Areas to be protected from grading, paving, and other disturbances shall generally include, at a minimum, the area six feet outside of tree driplines.

b. Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be fully mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.

29. Vacant Lands (New Policy under BIO) [105]

The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.

30. Flood Control (DevStd FLD-TC-1.2; DevStd FLD-TC-1.3) [108, 109]

~~a. No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: • Permit reasonable use of property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation; or • Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county's Local Coastal Program.~~

b. Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material, ~~where feasible.~~

31. Flood Control (New DevStd under Policy FLD-TC-1) [113, 115]

Any channelization, stream alteration, or desiltation/dredging projects permitted for flood protection shall only be approved where there is no other feasible alternative and consistent with the following:

(1) Flood control protection shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider less intrusive solutions as a first priority over engineering structural solutions. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over "hard" solutions such as concrete or riprap channels. "Hardbank" measures (e.g., use of concrete, riprap, gabion

baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible.

(2) The project shall include maximum feasible mitigation measures to mitigate unavoidable adverse impacts. Where hardbank channelization is required, site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a restoration plan.

(3) Flood control measures shall not diminish or change stream capacity, percolation rates or habitat values.

32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3) [116, 121]

a. In order to address drainage issues along the southeastern portion of Padaro Lane, the county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. Local drainageways and culverts should be cleared annually or as necessary. The study shall consider less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) as the primary means of defense against flood hazard and shall require maximum feasible mitigation for all impacts to wetland, riparian, or other native trees and habitat.

b. ~~Flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.~~

33. Slope Requirements (DevStd GEO-TC-1.1; New DevStd under Policy GEO-TC-1) [126, 127, 172 in part]

a. Development shall be prohibited on slopes greater than 30% except for the following, unless this would prevent reasonable use of property:

(1) Driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.

(2) Where all feasible building sites are constrained by greater than 30% slopes, the uses of the property and the siting, design, and size of any development approved on parcels, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. In no case shall the approved development exceed the maximum allowable development area. The maximum allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas of greater than 30% slope shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.

b. In areas of unstable soils, highly erosive soils, or on slopes between 20% and 30%, development shall not be allowed unless an evaluation by a qualified professional (e.g., soils engineer, geologist, etc.) establishes that the proposed project will not result in unstable slopes or severe erosion, ~~or unless this would prevent reasonable use of property.~~ Grading and other site preparation shall be minimized to the maximum extent feasible.

c. Any disturbed area on the subject parcel(s) where previous permits or other historic evidence cannot be provided to prove that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County review shall presume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after-the-fact coastal development permit is issued consistent with all current standards of the LCP. The County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.

34. Stream Crossings (New Policy under GEO) [131]

New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings within the coastal zone, including replacement of an existing stream crossing, shall be bridged. Where feasible, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.

35. Shoreline Protection Structures (DevStd GEO-TC-4.3; New DevStd under Policy GEO-TC-4) [134, 135, 137, 141, 143, 144, 145, 146, 147]

A. Shoreline and bluff development and protection structures shall be in conformance with the following standards:

1. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 100-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure, including hazards associated with anticipated future changes in sea level.

2. New development on or along the shoreline or a coastal bluff shall site septic systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.

~~3. New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan, or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline~~

protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted² height or previously permitted² seaward extent of such devices, and shall not increase any interference with legal public coastal access.

4. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.

5. Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a "vertical" seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.

B. Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable

1. As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

2. As a condition of approval of a shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.

3. As a condition of approval of new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

² For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.

36. Archaeology (New DevStd under Policy HA-TC-1) [148]

The County shall consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.

37. Ridgeline Development (DevStd VIS-TC-1.3; DevStd VIS-TC-2.3) [150, 151]

a. ~~In urban areas, d~~Development shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.

b. ~~Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, s~~Structures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.

38. Trail Siting Guidelines (Appendix E) [153]

Section II. C. Fences constructed along trail corridors should allow for wildlife movement, ~~to the greatest extent feasible.~~

Section III. A. Where appropriate (e.g., adjacent to existing agricultural operations, buildings, residences, etc.), the County should construct fencing between the trail and private land uses. County Parks shall determine on a case-by-case basis appropriate fencing design and type. The County should consider landowner input on fence design. ~~To the greatest extent feasible, f~~Fencing should shall not hinder the safety or the natural movement and migration of animals and should be aesthetically pleasing.

Section V. B. ~~Where appropriate, v~~Vehicle barriers (e.g., steel access gates) should be constructed at trailheads to prevent unauthorized motor vehicle access, while allowing hikers, bicyclists, equestrians, and authorized motor vehicles for emergency, maintenance, or to provide access to private in-holdings to access the trail. Internal access control barriers (i.e., any combination of steel gates, chain link or barbed wire fence may be necessary) should also be installed along trails at appropriate "choke points" (e.g., placement of barriers utilizing natural topography and/or trail user decision points) in order to keep trail users on the established trail route and prevent trespass and/or further entry into private property and/or environmentally sensitive areas. Trails may be designed for bicycle use where resource damage such as loss of vegetation or increased erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.

C. Before the County permits public use of any acquired trail right-of-way, adequate approved fencing consistent with resource protection and other precautions (such as signage) should be installed to prevent vandalism to neighboring properties and appropriate trailheads should be acquired and constructed to provide for the public safety.

39. Invasive Plant List [154]

Appendix H List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas;
Delete all references to the words "Near ESH Areas"

40. Non-Certified Language [155, 156]

All policies, development standards, and actions listed in Exhibit 17 shall be marked within the Toro Canyon Plan with a footnote or other identifying symbol such that it is clearly evident that such policies, provisions, or other standards are not certified as part of the Local Coastal Program.

The following text shall be added at the end of Section I.C "Overview of the Toro Canyon Plan:"

Local Coastal Program

This Plan is designed to be consistent with the California Coastal Act, the Santa Barbara County Coastal Plan, and the provisions of Article II. Goals, policies, actions, and development standards within this document shall be applicable within the Toro Canyon Plan area. However, provisions of this Plan denoted with an asterisk shall not be certified by the Coastal Commission and therefore shall not be the basis of appeal of a local Coastal Development Permit to the Coastal Commission.

41. Coastal Zone Boundary [157]

All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, and the Land Use Plan Map shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

42. Agriculture Conversion [158]

The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential Minimum 2 acre on the Toro Canyon Land Use Designations Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated A-I-40. All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

43. ESH Map [160, 161, 162, 163]

The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be modified as follows:

a. Modify text on Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map legend as follows: "~~(Within these areas, the mapped ESH extent along streams is intended to represent the "Top of Creek Bank" only; the extent of any associated riparian habitat must be determined by site-specific review)~~"

b. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to:

A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.

B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.

c. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to apply a new Wetland designation "Wetland (Not ESH)" to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

d. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

VI. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PROGRAM/COASTAL ZONING ORDINANCE (IP/CZO)

44. Coastal Zone Boundary [164]

All figures and maps submitted as part of the IP Amendment, including Zoning and Overlay maps, shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

45. ESH Map [165, 166, 167, 168]

The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be modified as follows:

a. Modify text on Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map legend as follows: "~~(Within these areas, the mapped ESH extent along streams is intended to represent the "Top of Creek Bank" only; the extent of any associated riparian habitat must be determined by site-specific review)~~"

b. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to:

A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.

B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.

c. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to apply a new Wetland designation "Wetland (Not ESH)" to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

d. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

46. Agriculture Conversion [169]

The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential 2-E-1 on the Zoning Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated AG-I-40.

47. Toro Canyon Plan Overlay District [172]

Amend proposed Section 35-194 of the Zoning Code (Exhibit 3) as follows:

Sec. 35-194. General

The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan ~~and serve to carry out certain policies of this Community Plan.~~ The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.

Sec. 35-194.1 Applicability

The provisions of this section apply to the Toro Canyon Plan Area as defined by the "Toro Canyon Plan Land Use Map." All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with the ~~TORO~~ this Overlay District.

Section 35-194.2 Processing

A. In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource specialist. Such a study would include an analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

Sec. 35-194.23 C-1 Zone District

1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:

- Any single family residence where there is no commercial use;
- Financial institutions;
- General business offices (such as real estate offices and general practitioner's offices);
- Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;
- Residential structures ~~and general practitioner's/professional offices~~ only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential ~~and professional office~~ uses should be located on second floor but if on

the first floor, then not on the street-facing part of the building. ~~Office uses shall be in less prominent locations than retail uses on the same site;~~

- Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.

2. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon:

•Hotels and motels;

•Mini-mart/convenience stores;

3. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon with a Major CUP:

•Overnight recreation vehicle facilities.

Secondary to a primary commercial use is defined as: a) A land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per one thousand (1,000) square feet of total gross floor area of commercial or industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use. Gross floor area shall not include parking areas.

Sec. 35-194.34 Findings

...

Sec. 35-194.45 Nonconforming Structures and Uses

1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that it meets the provisions of the Toro Canyon Plan and the certified LCP and evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

2. The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or

lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.

~~2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.~~

~~3. Expansion of a legal nonconforming primary residence residential structures located within Environmentally Sensitive Habitat (ESH) buffer areas in an Existing Developed Rural Neighborhood: Any primary residence residential structure that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStds BIO-TC-5.1 and BIO-TC-5.34 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator.~~

4. Nonconforming agricultural support structures other than greenhouse development: Any nonconforming agricultural support structure, other than "greenhouse development" as defined in the Carpinteria Agricultural (CA) Overlay, that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean

any structure, other than "greenhouse development" as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. ~~Nonconforming "greenhouse development" as defined in the CA Overlay shall be subject to the provisions of the CA Overlay.~~

~~5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan: Any agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.~~

~~6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO-TC 5.1 and BIO-TC 5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally-zoned property.~~

~~7. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the~~

~~maximum extent feasible.~~ Such a structure may be reconstructed ~~or structurally repaired~~ to the same or lesser size on the same site and in the same general footprint location, provided that:

- i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction ~~or structural repair~~; and
- ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction ~~or structural repair~~ of the nonconforming structure be denied.

Any such reconstruction ~~or structural repair~~ shall commence within twenty-four (24) months of the time of damage or destruction, ~~or the time of the owner's first documented discovery of the need for reconstruction or repair~~, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

...

9. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.

...

Sec. 35-194.56 Architectural Review Standards

...

Sec. 35-194.7 Economically Viable Use

If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that is designated as ESH would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the provisions of this section.

Sec. 35-194.8 Economically Viable Use Determination

The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.
- b. The purchase price paid by the applicant for the property.

- c. 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.
- d. 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.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
- g. 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.
- h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
- j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
- k. Apart from any rents received from the leasing of 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 (5) 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.
- l. Any additional information that the County requires to make the determination.

Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit

- 1. A coastal development permit for use other than those permitted in the ESH overlay and Toro Canyon Plan provisions may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):
 - a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the ESH Overlay would not provide an economically viable use of the applicant's property.
 - b. Application of the ESH standards would interfere with the applicant's investment-backed expectations.
 - c. The use proposed by the applicant is consistent with the applicable zoning.
 - d. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.
 - e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.

f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

Sec. 35-194.10 Agricultural Soils

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

Sec. 35-194.11 Land Divisions

Land divisions, including lot line adjustments and conditional certificates of compliance, shall only be permitted if each parcel being established could be developed without adversely impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.

VII.FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED

The attached staff report dated September 24, 2003 provides the findings in support of the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section IV, V, and VI (*Suggested Modifications*) above. Because the changes in the staff recommendation reflect a consolidation and general reduction in suggested modifications and the overarching topics remain the same, the findings in the September 24, 2003 report for the general resource sections (LCP Organization and Implementation, Scenic and Visual, Hazards, Watershed Protection, Agriculture, ESH, Public Access and Land Use) are adequate to support the revised recommendation. The Commission hereby finds and declares that the September 24, 2003 staff report (attached) incorporates all applicable findings for the revised staff recommendation, with the exception of Water Quality, which is provided below.

The following shall replace Section VII.E.8 of the September 24, 2003 staff report:

Water Quality

The Toro Canyon Planning Area lies within the Toro Creek and Arroyo Paredon Creek Watersheds. Numerous coastal creeks drain from these watersheds into the Pacific Ocean and Santa Barbara Channel, where valuable coastal resources and popular public recreation areas and activities exist. Maintaining and restoring water quality throughout the Toro Canyon Planning Area watersheds is necessary to protect the sensitive coastal resources and public amenities that exist in these areas.

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with the State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the January 2000 *Plan for California's Nonpoint Source Pollution Control Program* (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices

are best implemented at the local planning level, since they can be most cost effective during the design stage of development. The Commission and the Central Coast Regional Water Quality Control Board (CCRWQCB) are working in collaboration to protect water quality in the Santa Barbara area.

The Commission recognizes that new development in the County of Santa Barbara and especially the Toro Canyon area has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

New development often results in an increase in impervious surface, thereby reducing the proportion of precipitation that is retained on site by infiltration. As a consequence, there is an increase in the volume and velocity of stormwater that runs off the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation begins. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation.

Further, pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;

- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health.

The goal of the Toro Canyon Plan water quality policies is to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore natural drainages, wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including nonpoint source pollution, into the County's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development.

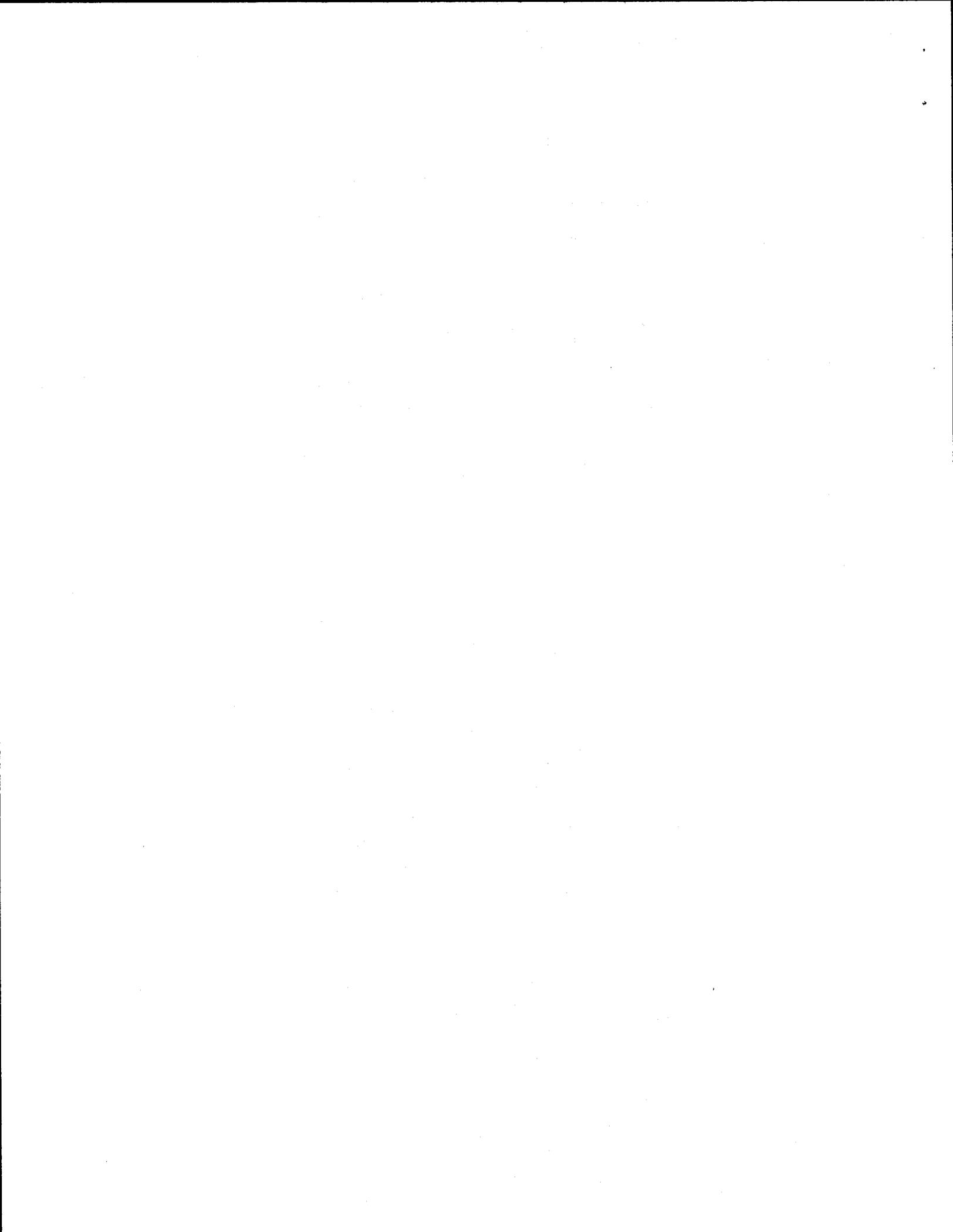
The Toro Canyon Plan contains several policies to meet the goal of protecting and enhancing water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The majority of these policies are contained under the heading Wastewater and Water, although there are also policies relating to water quality within the Biological Resources, Flooding and Drainage, and Geology, Hillside and Topography sections. As mentioned above, wastewater discharge has the potential to contribute pollutants to runoff. Two policies relating to wastewater have been modified or added to the existing policies. These include suggested modification 16, which reflects the overall intent of Coastal Act Section 30231 to protect the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean from the adverse impacts of wastewater and stormwater. Suggested modification 16 provides special wastewater protection for beachfront development, as this land use has a higher potential to impact water quality due to its proximity to coastal waters. Development including confined animal facilities is also required to protect water quality through siting, design, management and maintenance requirements, as this land use has the potential to contribute pollutants such as nutrients and pathogens to coastal waters. These requirements are reflected in suggested modification 15.

Based on the need to regulate land use in order to protect water quality, the SWRCB has provided guidance and requirements in its Phase II National Pollutant Discharge Elimination System (NPDES) Permit for land use development that may impact water quality. The County of Santa Barbara has responded to these Phase II requirements by developing a Draft Storm Water Management Program (SWMP) and submitting this SWMP to the CCRWQCB on

August 8, 2003 for review and approval. The CCC Water Quality Unit staff have reviewed the SWMP and provided comments to the County.

This SWMP is a comprehensive program addressing the impacts of stormwater and polluted runoff on water quality, and identifying measures and activities to reduce these impacts, including requirements related to siting and design of development, the construction phase of the project, and the post-construction phase of the project. The SWMP requires that development incorporate measures to protect water quality, and establishes a permit review process to identify impacts and ensure that water quality protection measures are implemented. Suggested modification 15 requires the incorporation by reference and implementation of the SWMP. The County will be required to review the SWMP for potential updates on an annual basis and submit any changes to the SWMP as potential LCP amendments.

These policies contained in the Toro Canyon Plan provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Therefore, the Commission finds that the Toro Canyon Plan meets the requirements of and is in conformity with Section 30231 of the Coastal Act.



Original
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RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF SUBMITTING TO THE)	RESOLUTION NO: 02-065
COASTAL COMMISSION AMENDMENTS TO THE)	CASE NO.s: 99-GP-007,
TEXT AND MAPS OF THE SANTA BARBARA)	99-OA-005, 99-RZ-009,
COUNTY LOCAL COASTAL PROGRAM)	00-GP-003, 00-OA-005,
)	00-RZ-002

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 89-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan; and
- B. On July 19, 1982, by Ordinance 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- C. The Board of Supervisors, having deemed it to be in the interest of orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County, has amended the Local Coastal Program as specified below.

Carpinteria Valley Greenhouse Program:

- 1. 99-GP-007, amend the Santa Barbara County Coastal Land Use Plan adding text to implement the program.
- 2. 99-OA-005, amend Article II of Chapter 35 of the Santa Barbara County Code as follows: amend Section 35-53 (Overlay District Designations and Applicability) to establish the new CA Carpinteria Agricultural Overlay District; amend Section 35-54 (Definitions) to add definitions for greenhouses and related structures; amend Sections 35-68.3 (Permitted Uses) to specify additional regulations for the Carpinteria Agricultural Overlay District (Sec. 35-102E); amend Section 35-102 to add language that creates a Carpinteria Agricultural Overlay District; and amend Section 35-162 (Nonconforming Buildings and Structures) to add language that would allow nonconforming greenhouse structures to be rebuilt to the standards set forth in Section 35-102E in the event of seventy-five (75) percent or more of damage.
- 3. 99-RZ-009, amend Article II to add the Carpinteria Agricultural Overlay District to the "Carpinteria Valley Coastal Plan Zoning Overlay" map.

EXHIBIT 1
STB-MAJ-3-02
Resolution 02-065 To
Submit LCP Amendment

Toro Canyon Plan:

4. 00-GP-003, amend the Santa Barbara County Coastal Land Use Plan to incorporate the Toro Canyon Plan and update related text and maps in the existing Land Use Plan.
5. 00-OA-005, amend Article II of Chapter 35 of the Santa Barbara County Code to reflect adoption of the Toro Canyon Plan, as follows: amend Division 4 (Zoning Districts) to add a new MT-TORO (Mountainous Area - Toro Canyon Plan) District as Section 35-94; amend Division 10 (Nonconforming Structures and Uses), Section 35-162.2.d to reflect special provisions that apply within the Toro Canyon Plan area; and add a new Division 16 (TCP - Toro Canyon Plan) Overlay as Section 35-194 to implement portions of the Plan related to commercial uses and architectural guidelines within the C-1 District on Santa Claus Lane, make various provisions for the replacement, reconstruction, and expansion of various types of permitted building structures within the Plan area, and add architectural review standards that apply throughout the Plan area.
6. 00-RZ-002, amend Article II to reflect adoption of the Toro Canyon Plan zoning and zoning overlay maps.

- D. Public officials and agencies, civic organizations, and citizens have been consulted on and have advised the Planning Commission on the said proposed amendments in duly noticed public hearings pursuant to Section 65353 of the Government Code, and the Planning Commission has sent its written recommendations to the Board pursuant to Section 65354 of the Government Code.
- E. This Board has held duly noticed public hearings, as required by Section 65355 and 65856 of the Government Code, on the proposed amendments, at which hearings the amendments were explained and comments invited from the persons in attendance.
- F. These amendments to the Local Coastal Program are consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Coastal Plan, and the requirements of State Planning and Zoning laws as amended to this date.
- G. The Board now wishes to submit these amendments to the California Coastal Commission.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

The above recitations are true and correct.

Pursuant to the provisions of Section 65356 and 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes are hereby adopted as amendments to the Santa Barbara County Coastal Plan and Coastal Zoning Ordinance text.

The Board certifies that these amendments are intended to be carried out in a manner fully in conformity with the said California Coastal Act.

4. The Board submits these Local Coastal Plan amendments to the California Coastal Commission for review and certification.
5. The Chairman and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this resolution to reflect the above described action by the Board of Supervisors.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 25th day of February, 2002, by the following vote:

AYES: Supervisor Schwartz, Rose, Marshall.

NOES: Supervisor Urbanske.

ABSTAIN: None.

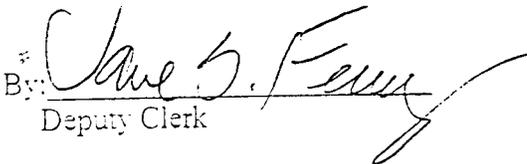
ABSENT: Supervisor Gray.



GAIL MARSHALL
Chair, Board of Supervisors
County of Santa Barbara

WITEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By: 
Deputy Clerk

APPROVED:

STEPHEN SHANE STARK
County Counsel

By: 
Deputy County Counsel

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING)
AMENDMENTS TO THE SANTA BARBARA)
COUNTY LOCAL COASTAL PROGRAM)
BY AMENDING THE COASTAL LAND USE)
PLAN (TEXT AND MAPS) TO INCORPORATE)
AND IMPLEMENT THE TORO CANYON PLAN)
_____)

RESOLUTION NO.: 02-062
CASE NO.: 00-GP-003

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan.
- B. On March 2, 1999, the Board of Supervisors adopted Resolution No. 99-73 to initiate the Preliminary Draft Toro Canyon Plan as a "project" for environmental review.
- C. The Planning Commission of the County of Santa Barbara, after holding duly noticed public hearings commencing on June 21, 2000 and concluding on February 21, 2001 endorsed and recommended adoption of the Toro Canyon Plan pursuant to Government Code Section 65554.
- D. The Board of Supervisors now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to amend the Local Coastal Program as follows:
 - 1. Amend the Coastal Land Use Plan to incorporate the Toro Canyon Plan.
 - 2. Amend the existing Coastal Land Use Plan text as follows:
 - a) Amend Table of Contents, second page to reflect new "Appendix I - Toro Canyon Plan";
 - b) Amend Sec. 4.2 (at p. 147) to reflect adoption of the Toro Canyon Plan within the larger Carpinteria Valley area;
 - c) Amend the land use definition of Semi-Rural Residential (p. B-4) to read, "The purpose of this designation is to provide for residential development that will preserve the semi-rural character of the Montecito Planning Area and portions of the Toro Canyon Plan area. ..." [remainder unchanged];
 - d) Amend Tables D-1 & D-2 (pp. D-2 & D-5) to add notations reflecting adoption of the Toro Canyon Plan;

EXHIBIT 2
STB-MAJ-3-02
Resolution 02-062 To Amend LUP/CP

e) Amend Tables E-2 & E-3 (pp. E-3 & E-4) to add notations reflecting adoption of the Toro Canyon Plan.

3. Amend the County Coastal Land Use Plan maps as follows:

- a) Create a new map titled, "Toro Canyon Land Use Designations, Coastal Plan";
- b) Create a new map titled, "Toro Canyon Plan Land Use Overlay Designations, Coastal Plan";
- c) Create a new map titled, "Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay, Coastal Plan";
- d) Amend the existing "Carpinteria Valley Land Use Designations, Coastal Plan" to remove the area that is covered by the Toro Canyon Plan;
- e) Amend the existing "South Coast Rural Region Land Use Designations, Coastal Plan";
- f) Retire the "Carpinteria Coast Rural Area Land Use Designations, Coastal Plan." A portion of the map not covered by the new Toro Canyon Land Use maps will be remapped onto the existing "South Coast Rural Region Land Use Designations, Coastal Plan" map.

E. Public officials and agencies, civic organizations, and citizens have been consulted on and have advised the Board of Supervisors on the proposed amendments in a duly noticed public hearing pursuant to Sections 65853 and 65854 of the Government Code, and the Planning Commission has sent its written recommendations to the Board pursuant to Section 65855 of the Government Code.

F. This Board has held a duly noticed public hearing, as required by Section 65855 of the Government Code, on the proposed rezones, at which hearing the rezones were explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. Pursuant to the provisions of Section 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes are hereby adopted as amendments to the Local Coastal Program of Santa Barbara County.
3. The Chairman and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this Resolution to reflect the above described action by the Board of Supervisors.

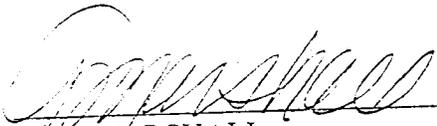
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 25th day of February, 2002, by the following vote:

AYES: Supervisor Schwartz, Rose, Marshall.

NOES: Supervisor Urbanske.

ABSTAINED: None.

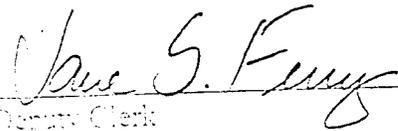
ABSENT: Supervisor Gray.



GAIL MARSHALL
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

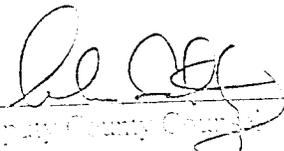
MICHAEL F. BROWN
Clerk of the Board of Supervisors

By 

Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By 

Deputy County Counsel

7706-2

ORDINANCE 4448

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE TO IMPLEMENT THE TORO CANYON PLAN BY ADDING A NEW MT-TORO (MOUNTAINOUS AREA- TORO CANYON PLAN) DISTRICT TO DIVISION 4 (ZONING DISTRICTS), AMENDING DIVISION 10 (NONCONFORMING STRUCTURES AND USES), AND ADDING A NEW DIVISION 16 (TCP- TORO CANYON PLAN OVERLAY)

CASE NO. 00-OA-005

The Board of Supervisors of the County of Santa Barbara, California, do hereby:

SECTION 1:

1. DIVISION 4 (ZONING DISTRICTS) is hereby amended to add the following text:

Sec. 35-94. MT-TORO Mountainous Area- Toro Canyon Planning Area.

Sec. 35-94.1. Purpose and Intent.

The purpose of this district is to ensure protection of lands that are unsuited for intensive development and have one or more of the following characteristics:

1. Slopes in excess of 40 percent.
2. Valleys surrounded by slopes exceeding 40 percent.
3. Isolated table land surrounded by slopes exceeding 40 percent.
4. Areas with outstanding resource values, such as state, nationally, scientific and educational, and watershed areas.

The intent is to allow limited development in these areas due to the presence of extreme fire hazards, minimum services, and/or environmental constraints and to encourage the preservation of these areas for uses such as watershed protection, scientific and educational study, and limited residential uses.

Sec. 35-94.2. Processing.

No permits for development, including grading, shall be issued except in conformance with Section 35-169 (Coastal Development).

Sec. 35-94.3. Permitted Uses.

1. One single-family dwelling per legal lot.

EXHIBIT 3
STB-MAJ-3-02
Ordinance #4448 (Proposed Zoning Text Changes)

2. One guest house subject to the provisions of Sec. 35-120 (General Regulations).
3. The non-commercial keeping of animals and poultry.
4. Cultivated agriculture, vineyard, or orchard when there is evidence of permitted or legal non-conforming use within the previous ten-year period.
5. Home occupations, subject to the provisions of Section 35-121 (General Regulations).
6. Accessory uses, buildings and structures that are customarily incidental to the above uses.

Sec. 35-94.4. Uses Permitted with a Major Conditional Use Permit.

1. Low intensity recreational uses such as summer camps, public riding stables, and hunting clubs.
2. Campgrounds with minimum facilities not including accommodations for recreational vehicles.
3. Limited facilities or developments for educational purposes or scientific research, e.g., water quality monitoring stations, access roads, storage facilities, etc.
4. Resource dependent uses such as mining and quarrying.
5. Onshore oil development, including exploratory and production wells, pipelines, separation facilities, and their accessory uses, subject to the requirements set forth in DIVISION 8, ENERGY FACILITIES.
6. Accessory uses, buildings and structures which are customarily incidental to the above uses.

Sec. 35-94.5. Uses Permitted with a Minor Conditional Use Permit.

1. Artist's studio.
2. New cultivated agriculture, vineyard or orchard use, when there is not evidence showing that it is a permitted or legal non-conforming use within the previous ten-year period.
3. Accessory uses, buildings and structures which are customarily incidental to the above uses.

Sec. 35-94.6. Findings Required for Conditional Use Permit.

In addition to the findings required for approval of a Conditional Use Permit in Sec. 35-172, no Conditional Use Permit shall be approved unless all of the following findings are made by the appropriate decision-maker:

1. The project does not require extensive alteration of the topography.
2. The project does not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream water courses or water bodies.
3. The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.

Sec. 35.94.7. Minimum Application Submittal Requirements for Conditional Use Permit.

In addition to the contents of the application required for Conditional Use Permits under Section 35-172.6, no application shall be accepted for processing unless accompanied by the following submittals:

1. A topographic map showing existing slopes, water courses, and types of vegetation on the property.
2. The location and specifications of all existing and proposed roads, terraces, and structures.
3. Application for new or expanded cultivation, orchard, or vineyard use shall include a Conservation Grading Plan that:
 - a. is reviewed and approved by the Resource Conservation District and meets the specifications as determined by the Soil Conservation Service
 - b. shows areas of 40% or greater slopes.
 - c. contains a crop production and cultivation plan for all agricultural operations to be conducted on the site, a description of mechanized equipment to be used; and for orchards and vineyards, a post-approval monitoring program.

Sec. 35-94.8. Minimum Lot Size.

Each lot shall have a minimum gross lot area as indicated below for the symbol shown on the lot on the applicable Santa Barbara County Zoning Map.

<u>Zoning Symbol</u>	<u>Minimum Lot Size</u>
MT-TORO-40	40 acres
MT-TORO-100	100 acres
MT-TORO-300	300 acres

A dwelling may be located upon a smaller lot if such lot is shown as a legal lot either on a recorded subdivision or parcel map or is a legal lot as evidenced by a recorded certificate of compliance, except for fraction lots.

Sec. 35-94.9. Setbacks for Buildings and Structures.

Fifty (50) feet from the centerline of any street and twenty (20) feet from the lot lines of the lot of which the building or structure is located.

Sec. 35-94.10. Height Limit.

No building or structure shall exceed a height of twenty-five (25) feet.

Sec. 35-94.11. Minimum Distance Required Between Buildings on the Same Building Site.

Five (5) feet.

Sec. 35-94.12. Parking.

As provided in DIVISION 6, PARKING REGULATIONS.

SECTION 2: Section 35-162.2.d of DIVISION 10 (NONCONFORMING STRUCTURES AND USES) is hereby amended to read as follows:

d. Notwithstanding the above, additional provisions exist in Section 35-214 of Division 15 (Montecito Community Plan Overlay District) for parcels identified within the MON Overlay zone, and in Section 35-194 of Division 16 (Toro Canyon Plan Overlay District) for parcels identified within the TCP Overlay zone, which, in the case of conflict, shall take precedence over this Section.

SECTION 3: DIVISION 16, TORO CANYON PLAN (TCP) OVERLAY DISTRICT, of Article II of Chapter 35 of the Santa Barbara County Code is hereby added as follows:

Sec. 35-194. General

The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan and serve to carry out certain policies of this Community Plan. The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence.

Sec. 35-194.1 Applicability

The provisions of this section apply to the Toro Canyon Plan Area as defined by the "Toro Canyon Plan Land Use Map." All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with the TORO Overlay District.

Sec. 35-194.2 C-1 Zone District

1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:

- Any single family residence where there is no commercial use;

- Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;
- Residential structures and general practitioner's professional offices only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;
- Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.

2. "Western Seaside Vernacular Commercial" is defined as follows:

The chief style characteristic of Western Seaside Vernacular Commercial is simplicity. Examples of Western Seaside Vernacular have occurred in Avila Beach and Stearns Wharf. The following are characteristic of Western Seaside Vernacular architecture.

Orientation and Massing

Low massing
Little or no set-back from sidewalk edge

Roofs

Flat
Pitched gable roofs, but not gambrel or mansard roofs

Roof Materials

Composition
Wood shingles, subject to the allowances and limitations of the County Building Code
Shingles made to resemble wood or slate

Windows

"Picture"
Horizontally oriented multi-paned
Multi-paned with wood sash and frames
Wood framed

Doors

Simple wood
Simple wood and glass
Simple French doors

Siding

Board and batten
Beveled tongue and groove
Shingles

Colors

Weathered wood
Whitewash
Neutrals
Weathered colors

Sec. 35-194.3 Findings

In addition to the findings that are required for approval of a development project (as development is defined in this Article), as identified in each section of Division 11 - Permit Procedures of Article

II, a finding shall also be made that the project meets all applicable policies and development standards included in the Toro Canyon Plan.

Sec. 35-194.4 Nonconforming Structures and Uses

1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.

3. Expansion of nonconforming residential structures located within Environmentally Sensitive Habitat (ESH) buffer areas: Any residential structure that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStds BIO-TC-5.1 and BIO-TC-5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator.

4. Nonconforming agricultural support structures other than greenhouse development: Any nonconforming agricultural support structure, other than "greenhouse development" as defined in the Carpinteria Agricultural (CA) Overlay, that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure, other than "greenhouse development" as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. Nonconforming "greenhouse development" as defined in the CA Overlay shall be subject to the provisions of the CA Overlay.

5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan: Any agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time

extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.

6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO-TC-5.1 and BIO-TC-5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally-zoned property.
7. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. Such a structure may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that:
 - i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction or structural repair; and
 - ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction or structural repair of the nonconforming structure be denied.

Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of damage or destruction, or the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

8. Expansion of certain nonconforming structures located within front, rear, or side yard setback areas: Any structure that is nonconforming solely due to its location within a front, rear, or side yard setback area, due to any increase in such setback area that resulted from a change of zoning adopted with the Toro Canyon Plan, may be enlarged or expanded in a manner that does not further encroach into any such setback area and that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.
9. Nonconforming uses: The replacement or re-establishment of nonconforming uses is subject to the regulations of the Toro Canyon Plan and this Article only to the extent that some type of permit may be required by this Article. Any such permit may be approved only in conformance with the regulations of the Toro Canyon Plan and this Article.

Sec. 35-194.5 Architectural Review Standards

1. Residential structures shall not exceed a height of 25' unless further restricted by other sections of the Zoning Ordinances (such as the Ridgeline and Hillside Development Guidelines).
2. Notice of a project's initial BAR hearing (e.g. conceptual or preliminary review) shall be mailed to the owners of the affected property and the owners of the property within 500 feet of the exterior boundaries of the affected property at least 10 calendar days prior the BAR hearing, using for this purpose the name and address of such owners and occupants as shown on the current Assessor's tax rolls of the County of Santa Barbara.
3. The following criteria shall be applied for the approval of any non-agricultural structures, by Planning and Development (P&D) and the Board of Architectural Review (BAR):
 - A. Where height exemptions under Ridgeline and Hillside Development Guidelines are allowed for rural properties, BAR minutes and the P&D project file shall include a written discussion of how the project meets the applicable exemption criteria.
 - B. Large understories and exposed retaining walls shall be minimized.
 - C. Building rake and ridgeline shall conform to or reflect the surrounding terrain.
 - D. Landscaping is used to integrate the structures into the site and its surroundings, and is compatible with the adjacent terrain.
 - E. The exterior surfaces of structures, including water tanks, walls and fences, shall be non-reflective building materials and colors compatible with surrounding terrain (including soils, vegetation, rock outcrops). Where paints are used, they also shall be non-reflective.
 - F. Retaining walls shall be colored and textured (e.g., with earth tone and split faces) to match adjacent soils or stone, and visually softened with appropriate landscaping.
 - G. Outside lighting shall be minimized. Outside lighting shall be shielded, downward-directed low-level lighting consistent with Toro Canyon's rural and semi-rural character.

- H. The total height of cut slopes and fill slopes, as measured from the natural toe of the lowest fill slope (see Figure 35-194.1 Examples A and D) or the natural toe of the lowest cut slope (see Figure 35-194.1 Examples B and C) to the top of the cut slope, shall be minimized. The total vertical height of any graded slopes for a project, including the visible portion of any retaining wall above finished grade, shall not exceed sixteen (16) vertical feet.
- I. The visible portion of a retaining wall above finished grade shall not exceed six feet. (See Figure 35-194.1.)

Upon recommendation by BAR, P&D may grant exemptions to criteria H and I if written findings are made that the exemptions would allow a project that: 1) furthers the intent of protecting hillsides and watersheds, 2) enhances and promote better structural and/or architectural design and 3) minimizes visual or aesthetic impacts.

SECTION 4: Except as amended by this ordinance, Division 4 of Article II of Chapter 35, of the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

SECTION 5: This ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, or a summary of it, shall be published once, together with the names of the members of the Planning Commission voting for and against the same in the SANTA BARBARA NEWS PRESS, a newspaper of general circulation in the County of Santa Barbara.

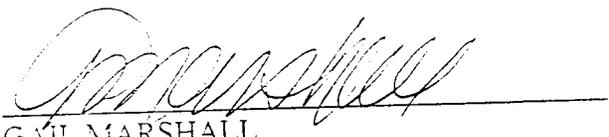
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 25th day of February, 2002, by the following vote:

AYES: Supervisor Schwartz, Rose, Marshall.

NOES: Supervisor Urbanske.

ABSTAINED: None.

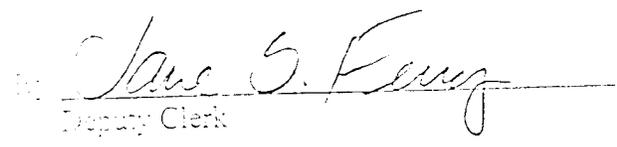
ABSENT: Supervisor Gray.



GAIL MARSHALL
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors


Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

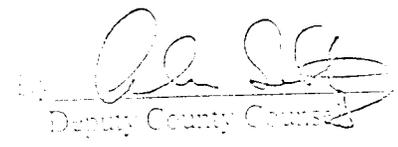

Deputy County Counsel

Figure 35-194.1, Examples A and B

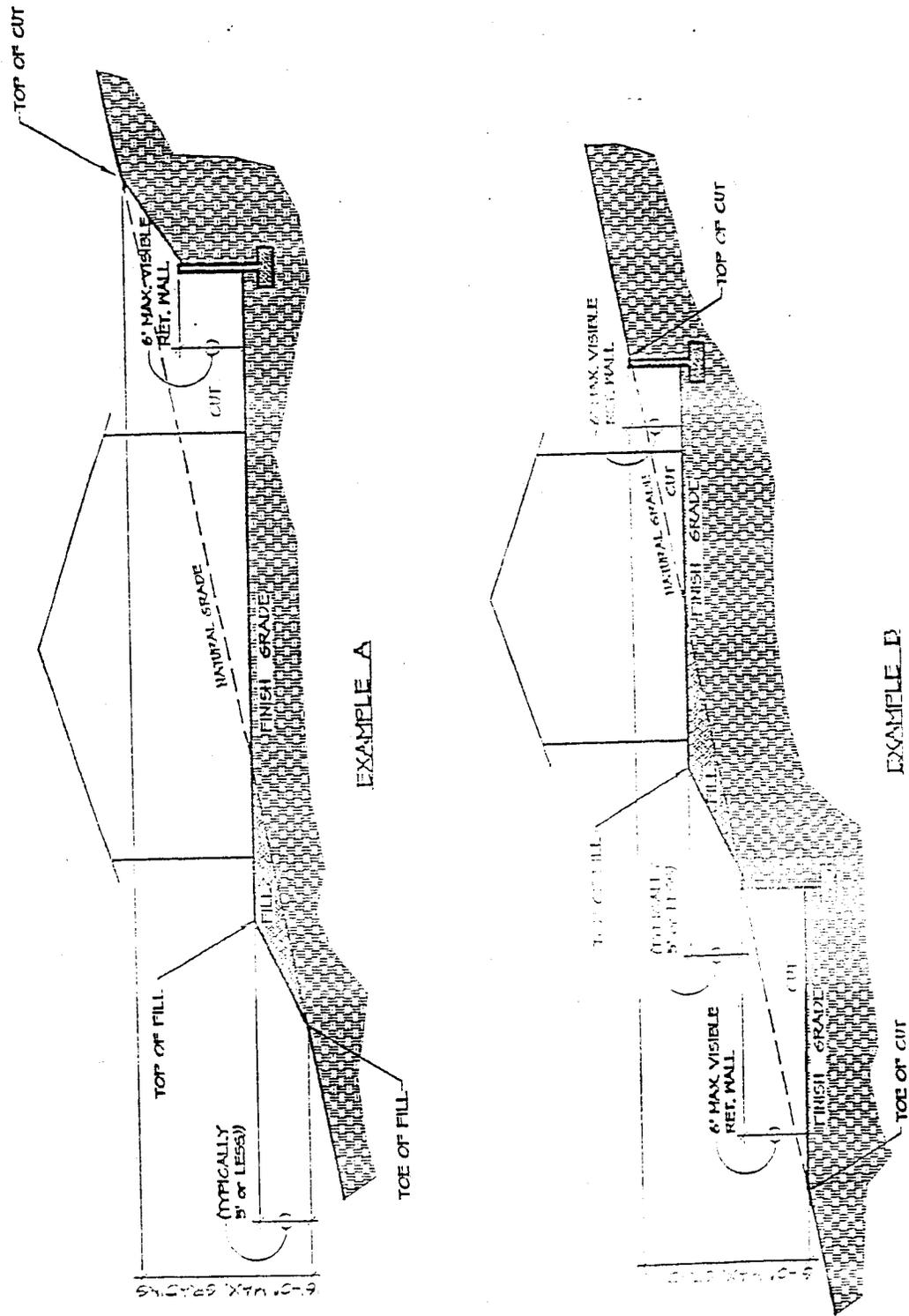
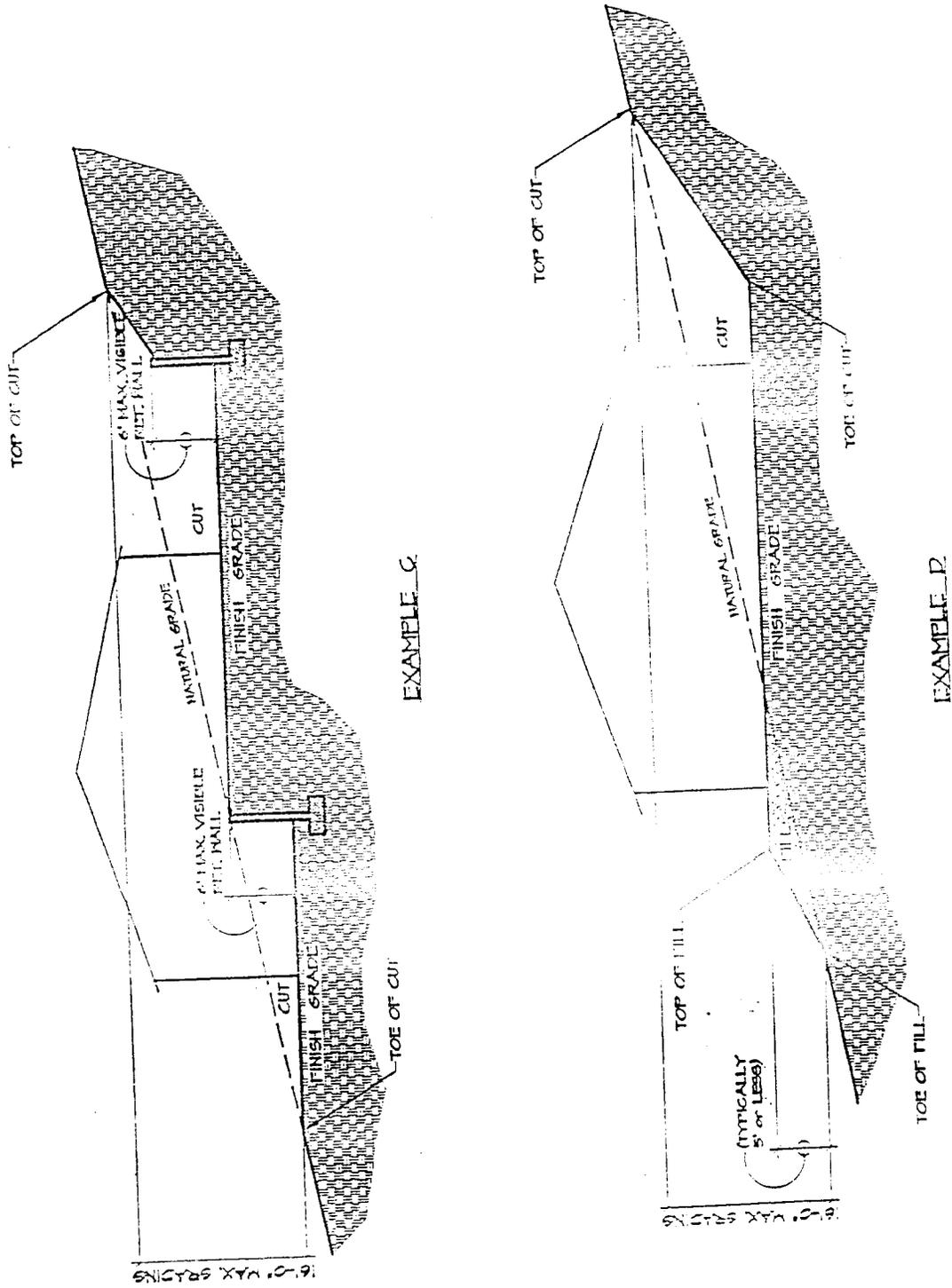


Figure 35-194.1, Examples C and D



Toro

ARTICLE II (REZONE ONLY)

ORDINANCE NO. 4449

AN ORDINANCE AMENDING SECTION 35-54, ADOPTING NEW ZONING ORDINANCES AND MAPS, OF ARTICLE II OF CHAPTER 35 OF THE CODE OF THE COUNTY OF SANTA BARBARA, CALIFORNIA, BY ADOPTING BY REFERENCE ZONING EXHIBITS NO. 35-54.90.0, 35-54.91.0, AND 35-54.92.0 TO REZONE CERTAIN PARCELS TO IMPLEMENT THE TORO CANYON PLAN

Case No. 00-RZ-002

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1

The purpose of this Ordinance is to amend existing zoning maps and zoning overlay maps in order to implement the Toro Canyon Plan. Section 2 adopts a newly-created zoning district map which covers only those parcels within the coastal portion of the Toro Canyon Plan Area. Section 3 adopts a new zoning overlay map for the coastal portion of the Toro Canyon Planning Area. Section 4 adopts an additional zoning overlay map for the coastal portion of the Toro Canyon Planning Area, revising mapped Environmentally Sensitive Habitat. Previously existing maps are amended to reflect the adoption of these new maps.

SECTION 2

Pursuant to the provisions of Section 35-54, "Adopting Zoning Ordinances and Continuation of Existing Development Plans and Plot Plans," of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the zoning map identified as Board of Supervisors Exhibit No. 35-54.90.0 which creates a new Toro Canyon Planning Area zoning map, titled "Toro Canyon Plan Zoning Districts (Coastal Area)."

This map supersedes and retires the following two pre-existing maps for this area:

- Carpinteria Coast Rural Area Zoning Designations Article II (Coastal Area), Exhibit No. 35-54.50.0. One area within the Coastal Zone Urban Area will be moved to the South Coast Rural Region Map Zoning Districts Map.
- Carpinteria Area Zoning Districts Urban Areas Article II, Exhibit No. 35-54.1.19.

EXHIBIT 4
STB-MAJ-3-02
Ordinance #4449 (Proposed Zoning Map Changes)

This map amends "South Coast Rural Region Zoning Districts Article II (Coastal Area)" Exhibit No. 35-54.40.1 and Ordinance 661.

SECTION 3.

Pursuant to the provisions of Section 35-54, "Adopting Zoning Ordinances and Continuation of Existing Development Plans and Plot Plans," of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the zoning map identified as Board of Supervisors Exhibit No. 35-54.91.0, "Toro Canyon Plan Zoning Overlay Districts (Coastal Area)." This map amends "Carpinteria Valley Coastal Plan: Zoning Overlay" Exhibit No. 35-54.2.3.

SECTION 4.

Pursuant to the provisions of Section 35-54, "Adopting Zoning Ordinances and Continuation of Existing Development Plans and Plot Plans," of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the zoning map identified as Board of Supervisors Exhibit No. 35-54.92.0, "Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II (Coastal Zone)" This map amends "Carpinteria Valley Coastal Plan: Zoning Overlay" Exhibit No. 35-54.2.3.

SECTION 5.

The Chairman of the Board of Supervisors hereby certifies that the zoning maps identified as Exhibits No. 35-54.90.0, 35-54.91.0, and 35-54.92.0 to show that said maps have been adopted by this Board.

SECTION 6.

Except as amended by this Ordinance, Section 35-54 of the Code of Santa Barbara County, California, shall remain unchanged and shall continue in full force and effect.

SECTION 7.

This ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 25th day of February, 2002, by the following vote:

AYES: Supervisor Schwartz, Rose, Marshall.

NOES: Supervisor Urbanske.

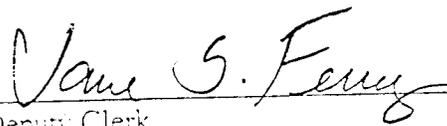
ABSTAINED: None.

ABSENT: Supervisor Gray.


GAIL MARSHALL
Chair, Board of Supervisors
County of Santa Barbara

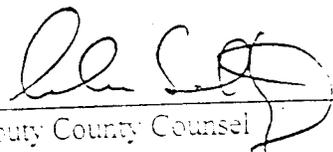
ATTEST:

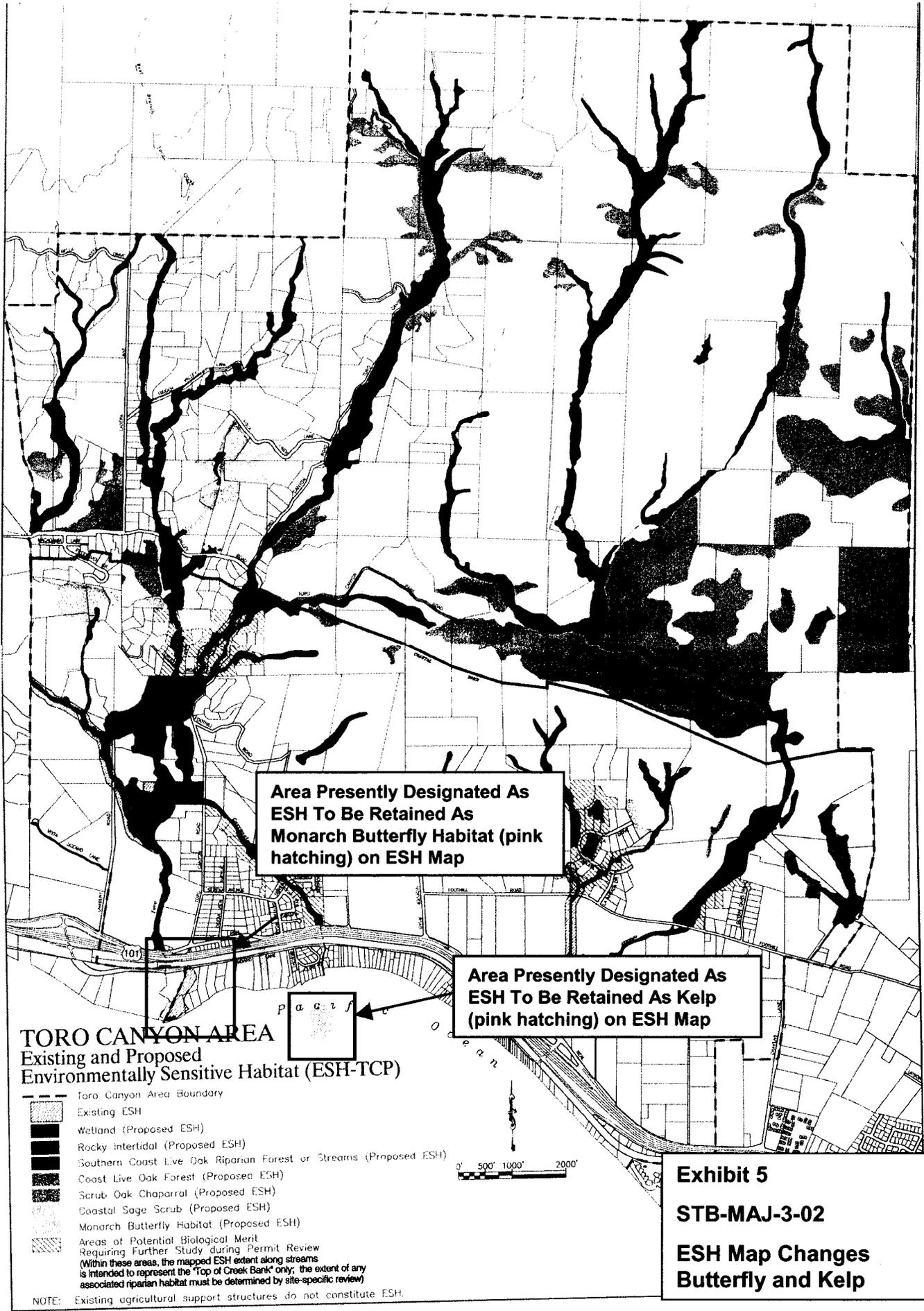
MICHAEL F. BROWN
Clerk of the Board of Supervisors

By: 
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By: 
Deputy County Counsel



Area Presently Designated As
ESH To Be Retained As
Monarch Butterfly Habitat (pink
hatching) on ESH Map

Area Presently Designated As
ESH To Be Retained As
Kelp (pink hatching) on ESH Map

TORO CANYON AREA
Existing and Proposed
Environmentally Sensitive Habitat (ESH-TCP)

- Toro Canyon Area Boundary
- Existing ESH
- Wetland (Proposed ESH)
- Rocky intertidal (Proposed ESH)
- Southern Coast Live Oak Riparian Forest or Streams (Proposed ESH)
- Coast Live Oak Forest (Proposed ESH)
- Scrub Oak Chaparral (Proposed ESH)
- Coastal Sage Scrub (Proposed ESH)
- Monarch Butterfly Habitat (Proposed ESH)
- Areas of Potential Biological Merit
Requiring Further Study during Permit Review
(Within these areas, the mapped ESH extent along streams
is intended to represent the "Top of Creek Bank" only; the extent of any
associated riparian habitat must be determined by site-specific review)

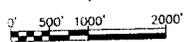
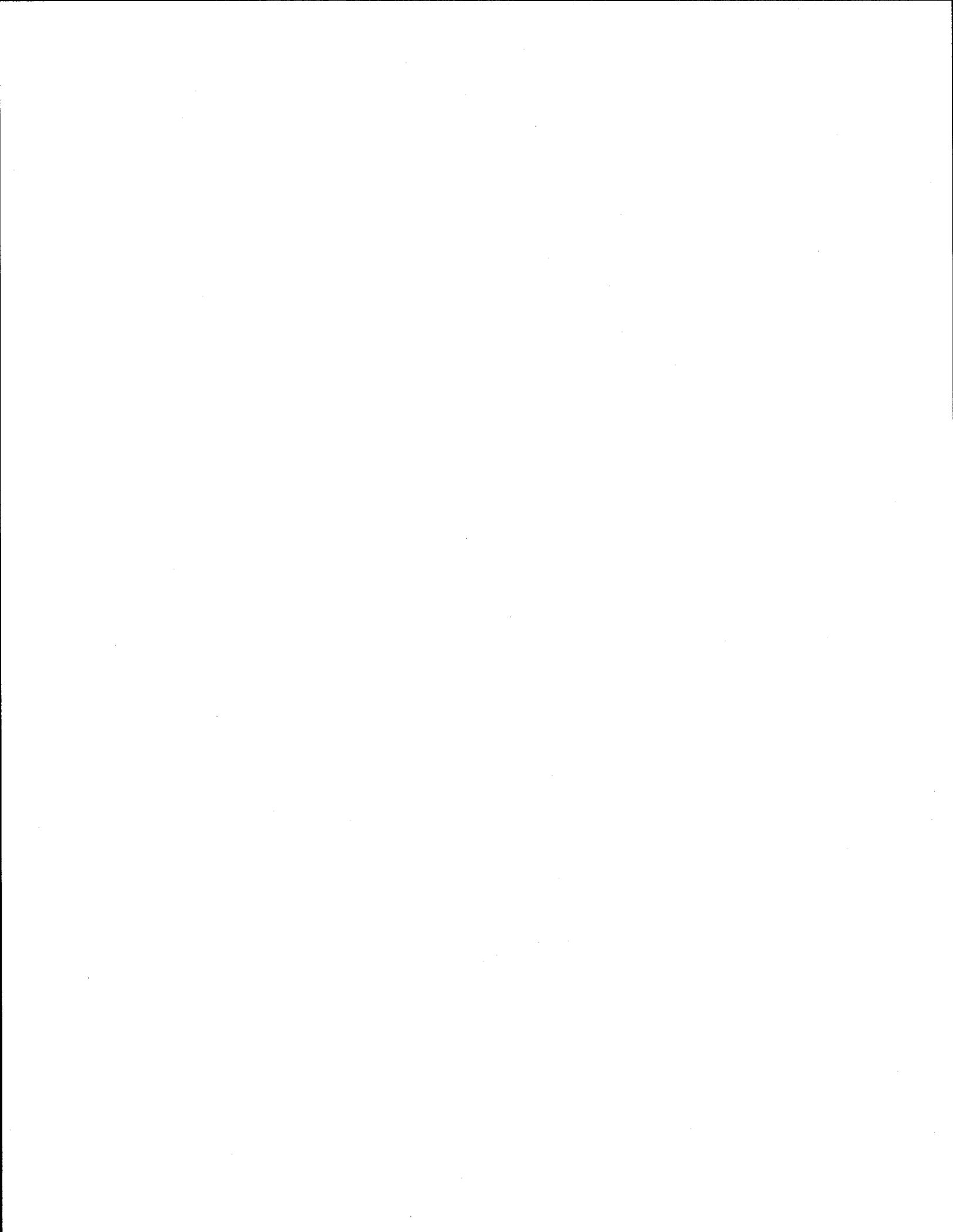
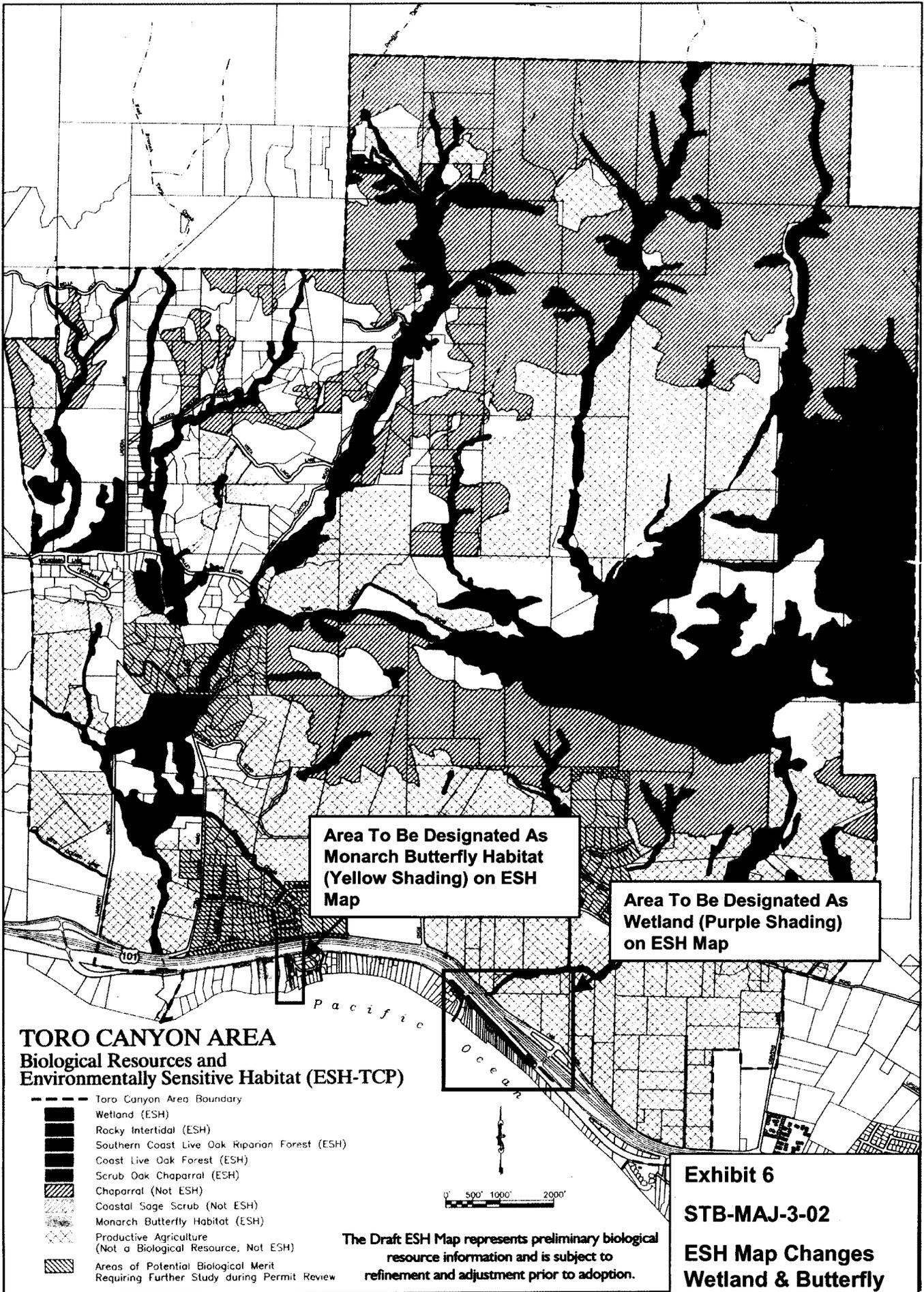


Exhibit 5
STB-MAJ-3-02
ESH Map Changes
Butterfly and Kelp

NOTE: Existing agricultural support structures do not constitute ESH.



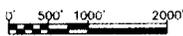


Area To Be Designated As Monarch Butterfly Habitat (Yellow Shading) on ESH Map

Area To Be Designated As Wetland (Purple Shading) on ESH Map

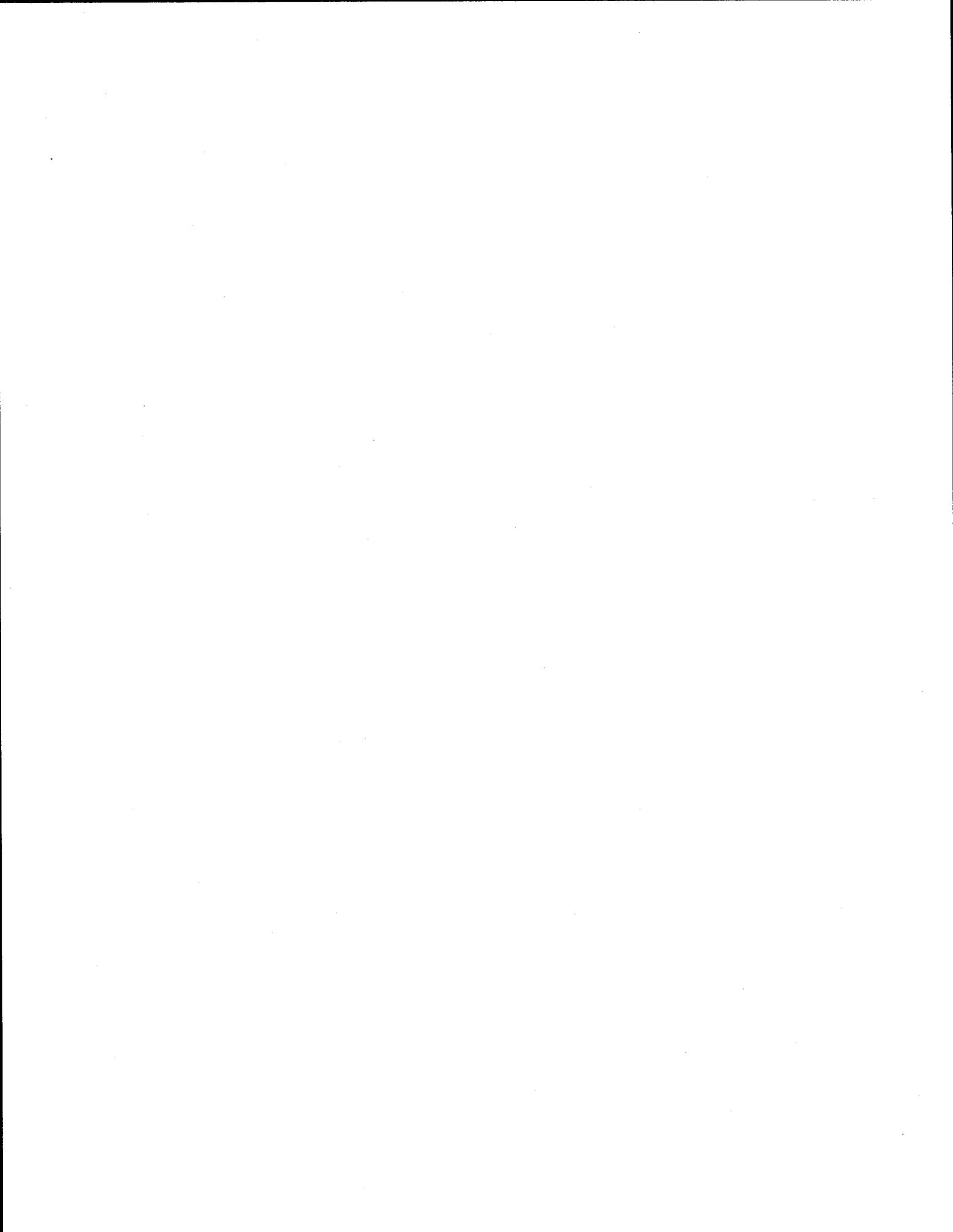
**TORO CANYON AREA
Biological Resources and
Environmentally Sensitive Habitat (ESH-TCP)**

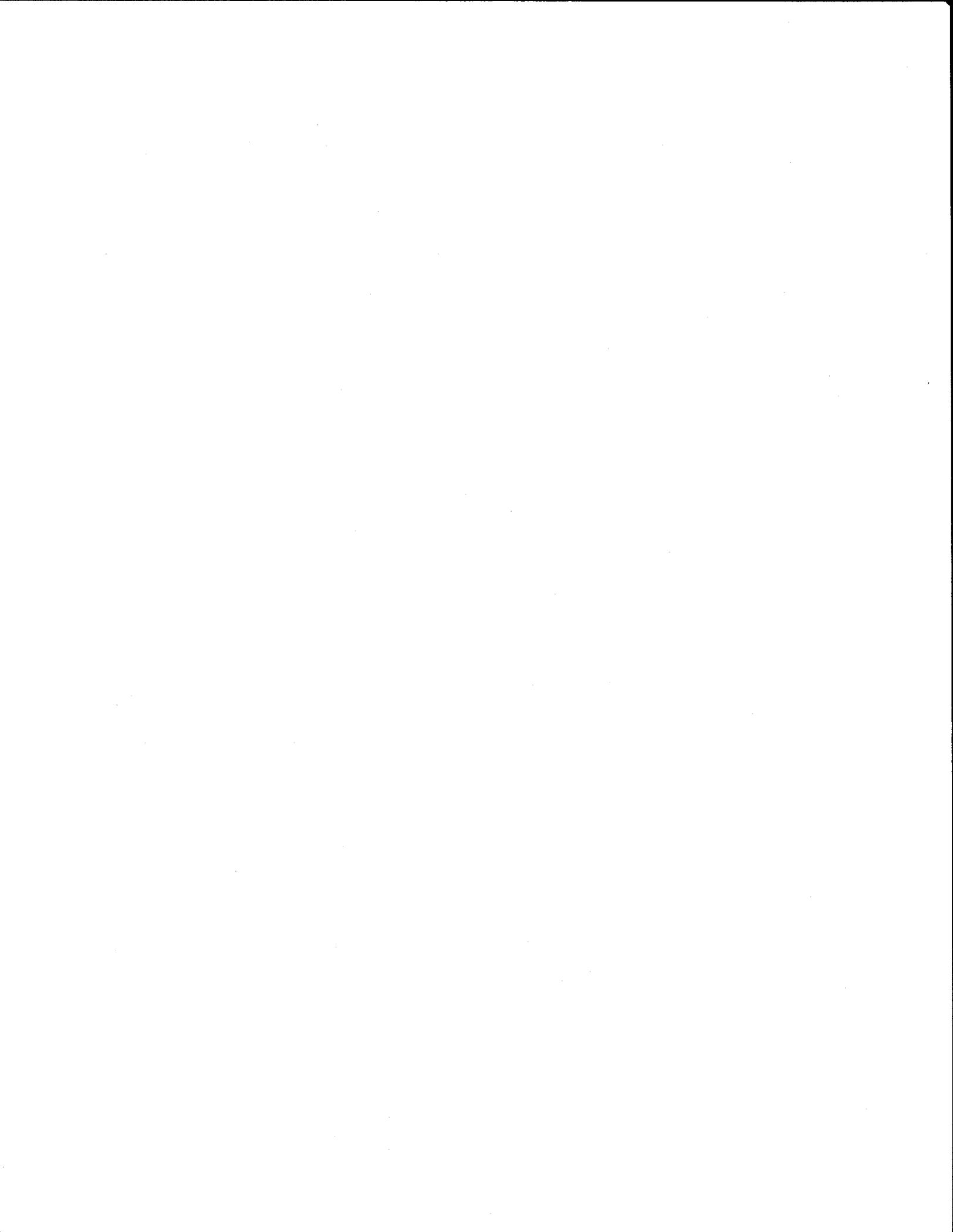
- Toro Canyon Area Boundary
- Wetland (ESH)
- Rocky Intertidal (ESH)
- Southern Coast Live Oak Riparian Forest (ESH)
- Coast Live Oak Forest (ESH)
- Scrub Oak Chaparral (ESH)
- Chaparral (Not ESH)
- Coastal Sage Scrub (Not ESH)
- Monarch Butterfly Habitat (ESH)
- Productive Agriculture (Not a Biological Resource, Not ESH)
- Areas of Potential Biological Merit Requiring Further Study during Permit Review

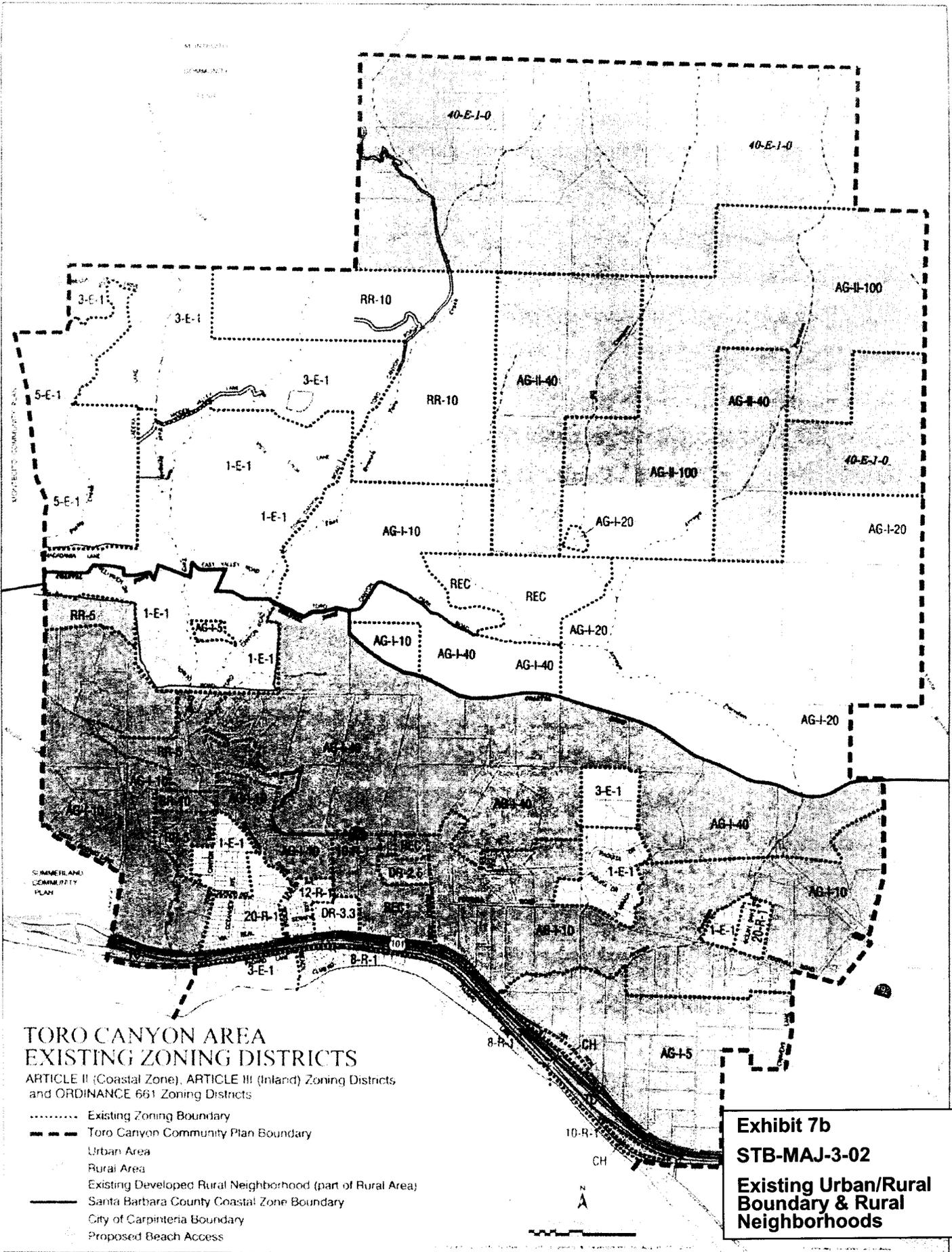


**Exhibit 6
STB-MAJ-3-02
ESH Map Changes
Wetland & Butterfly**

The Draft ESH Map represents preliminary biological resource information and is subject to refinement and adjustment prior to adoption.





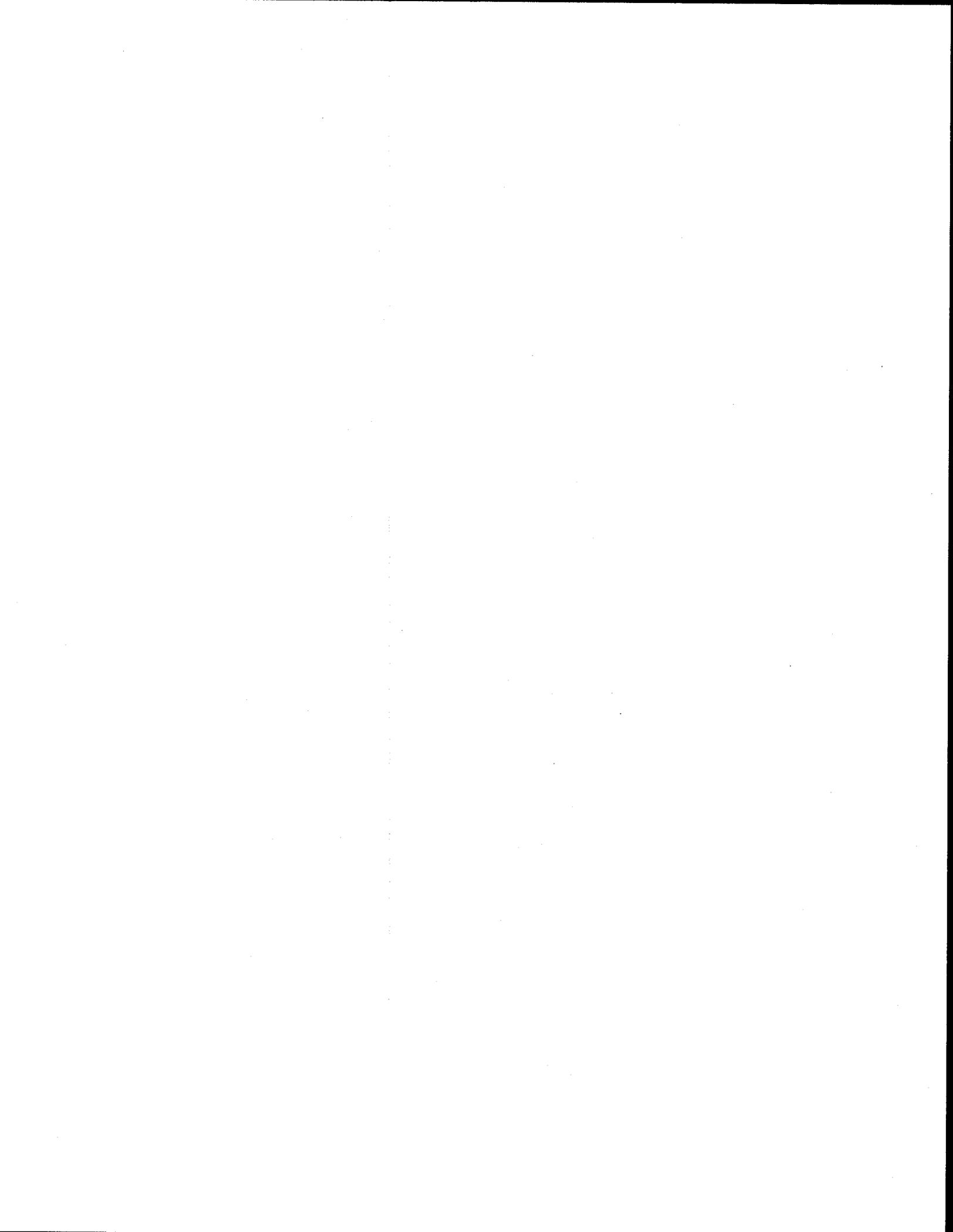


**TORO CANYON AREA
EXISTING ZONING DISTRICTS**
ARTICLE II (Coastal Zone), ARTICLE III (Inland) Zoning Districts
and ORDINANCE 661 Zoning Districts

- Existing Zoning Boundary
- Toro Canyon Community Plan Boundary
- Urban Area
- Rural Area
- Existing Developed Rural Neighborhood (part of Rural Area)
- Santa Barbara County Coastal Zone Boundary
- City of Carpinteria Boundary
- Proposed Beach Access

Exhibit 7b
STB-MAJ-3-02
**Existing Urban/Rural
Boundary & Rural
Neighborhoods**





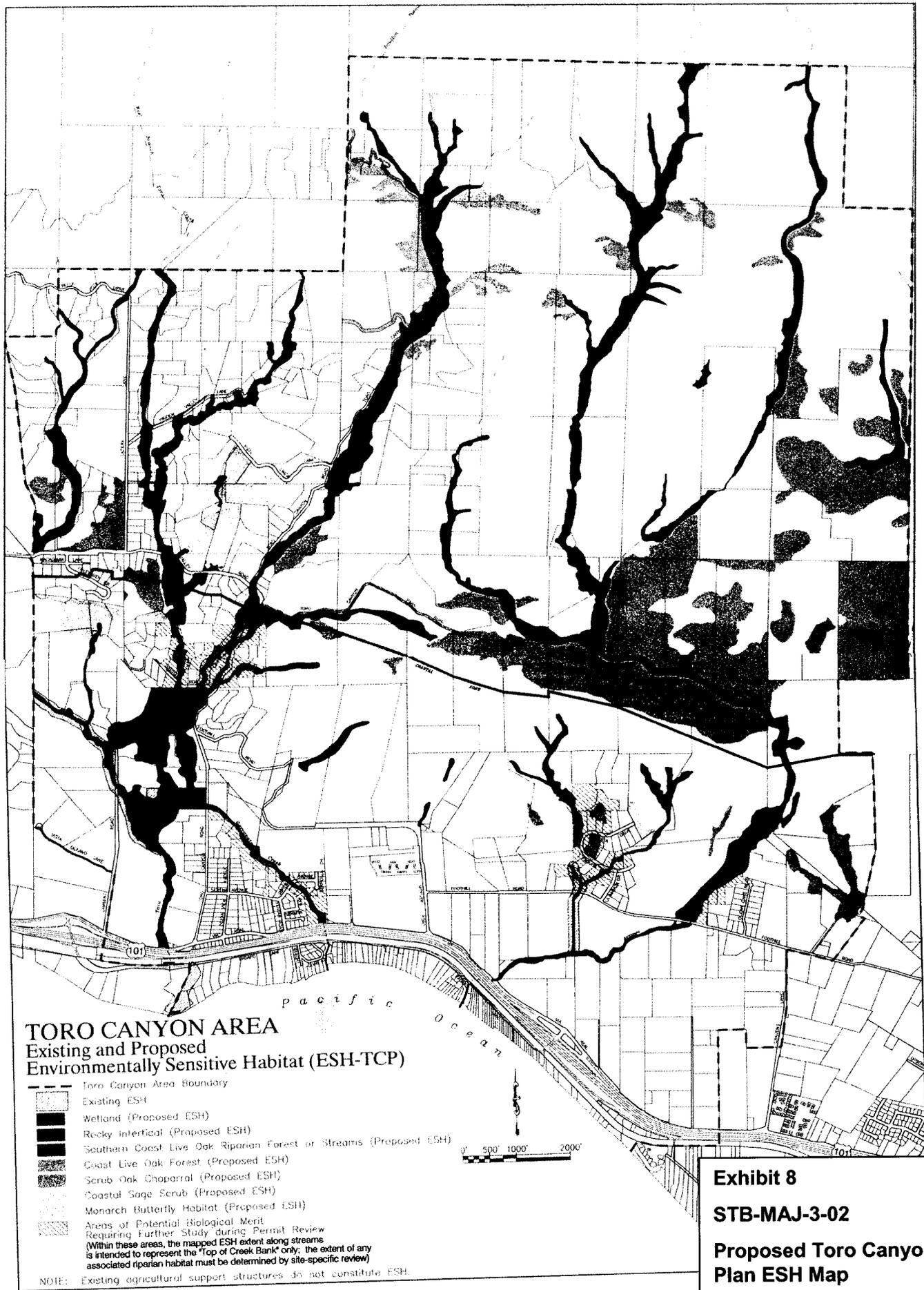
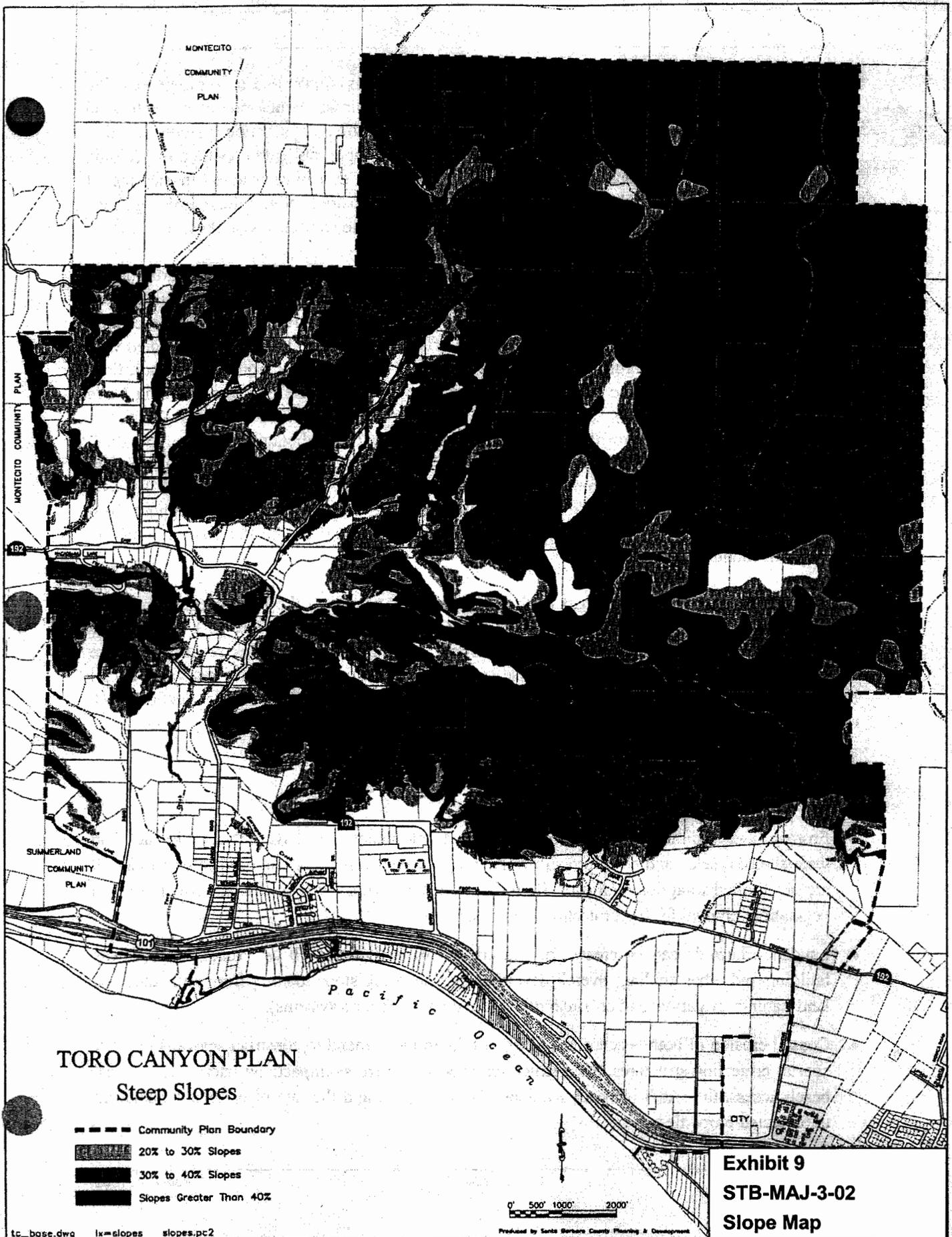


Exhibit 8
STB-MAJ-3-02
Proposed Toro Canyon
Plan ESH Map





MONTECITO
COMMUNITY
PLAN

MONTECITO COMMUNITY PLAN

SUMMERLAND
COMMUNITY
PLAN

TORO CANYON PLAN
Steep Slopes

- Community Plan Boundary
- ▨ 20% to 30% Slopes
- ▩ 30% to 40% Slopes
- Slopes Greater Than 40%

0' 500' 1000' 2000'

Exhibit 9
STB-MAJ-3-02
Slope Map



COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Members of the Board of Supervisors

FROM: Dave Ward, Planner *DW*
Comprehensive Planning Division

DATE: June 25, 2001

RE: Correspondence on *ESH Designation* of Monarch Butterfly Habitat at
3197 Padaro Lane

Attached is a letter from Dr. Daniel Meade, biologist and author of *Monarch Butterfly Overwintering Sites in Santa Barbara County* (November 1999), indicating in his analysis that the monarch butterfly aggregation site is correctly located at 3197 Padaro Lane. Two comprehensive studies of monarch sites in the County have been prepared: one study by William Calvert, 1991; and this 1999 study by Dr. Meade. Both studies identified an aggregation site at 3197 Padaro Lane by physical description and coordinates, irrespective of the erroneous street address in the Meade study. While both studies recognize this site as harboring fewer monarchs than other aggregation sites in the area, environmental factors can change the overwintering habits of the monarchs and this site may become a substantial aggregation site in future years.

Staff asked Dr. Meade to verify the site after the property owner, Donald Hromadka, expressed concern over the ESH designation of the monarch site on his property as proposed under the Toro Canyon Plan. While Mr. Hromadka may still disagree with the ESH designation on his property, full delineation of the monarch habitat in relationship to any proposed developed would be assessed for any environmental impacts at the time of coastal development permit application. The Toro Canyon Plan does not change the County's existing Local Coastal Plan protection of monarch butterfly habitat as ESH or the County process of full delineation of ESH habitat at the time of development. Staff can provide more information on this matter to the Board at the next hearing on July 9th, 2001, when ESH policies will be presented.

G:\GROUP\COMP\WP\Toro Canyon\Biology\bosmemo6-25-01 monarch ESH.doc

EXHIBIT 10
STB-MAJ-3-02
Correspondence Butterfly Habitat

ALTHOUSE AND MEADE, INC.

BIOLOGICAL AND ENVIRONMENTAL SERVICES

1875 Wellsona Road • Paso Robles, CA 93446 • Telephone (805) 237-9626 • Fax (805) 467-1021

Lynne Dee Althouse, Ph.D.c.
(805) 459-1660 (cell)
althouse@tcsn.net

Daniel E. Meade, Ph.D.
(805) 705-2479 (cell)
meadeeco@tcsn.net

June 21, 2001

County Planning and Development Department
Attention: Dave Ward, Toro Canyon Planner
123 E. Anapamu St.
Santa Barbara, CA 93101

Re: Monarch butterfly habitat at 3197 Padaro Lane

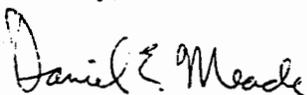
Dear Dave:

In my report, Monarch Butterfly Overwintering Sites in Santa Barbara County, California (August 1999) I listed site number 98 as occurring at 3459 Padaro Lane. This was an error. The correct address of this site is 3197 Padaro Lane. I confirmed this as the correct address during a site visit on April 2, 2001. The aggregation site at 3197 Padaro Lane has been a substantial and important aggregation site in past years, even though in 1998 and 1999 very few butterflies aggregated at that location.

The Padaro Lane area is an environmentally sensitive habitat area with respect to monarch butterfly aggregations. We have identified several monarch butterfly aggregations in the Padaro Lane area. The precise location of aggregations changes from year to year in this area. Even though the site at 3197 held few monarch butterflies during our 1998 and 1999 surveys, it could harbor substantial aggregations in the future. It is essential for the protection of monarch aggregations that occur in the Padaro Lane area to require environmental review that considers the effect of proposed projects on monarch butterfly aggregations. Large aggregations could return to 3197 Padaro Lane, and could be at risk from projects that did not have environmental review that considered impacts to monarch butterfly.

It has been my understanding that the County ESH designation has always been mapped as a general area, not a definitive location such as a street address. The purpose of this general area approach has been to account for exactly such biological phenomena as the overwintering aggregation patterns of monarch butterflies. The aggregation locations are dynamic, and cannot be definitively isolated once and for all to specific trees, lots, or street addresses. For this reason, the County policy that requires on site investigations and analysis once development has been applied for is appropriate, so that the environmentally sensitive habitat can be delineated with consideration of project specific impacts.

Sincerely,



Daniel E. Meade

Ex. 10 Pg 2 of 2

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
) 641 - 0142



June 28, 2001

David Ward
County of Santa Barbara
Planning and Development
123 East Anapamu Street
Santa Barbara, California 93101-2058

RE: Toro Canyon Habitat

Dear Mr. Ward:

Our staff is aware that your office is in the process of preparing the Toro Canyon Plan that will, in part, address the designation of environmentally sensitive habitat area in this area. As you requested, we would like to provide some initial input into this process.

Our staff biologist, Dr. Jon Allen, visited the Toro Canyon area with you and Greg Mohr on May 8, 2001. Dr. Allen has stated that these riparian oak woodland creeks are characterized by rural development along creeks with an understory that in areas has been somewhat degraded by invasive, non-native plant species (e.g., non-native periwinkle). However, he noted that the majority of the tree canopies are still closed by large, old sycamores and oak trees. In his professional opinion, the presence of this riparian habitat renders this area environmentally sensitive, particularly in relation to the long time required to produce this type of mature habitat. Dr. Allen has pointed out that these old mature trees require a long time to produce or restore following disturbance, making them especially valuable, and easily disturbed.

As a result, these riparian areas consisting of oak and sycamore canopies should be protected as an environmentally sensitive habitat area (ESHA). They are an essential component of these neighborhoods and qualify as ESHA under the Coastal Act, regardless of whether the habitat is degraded or pristine. Additionally, in Dr Allen's opinion, the degree of present disturbance in these areas is not significant enough to render this habitat no longer ESHA, as most of the old canopies remain. As we have found in past Coastal Commission actions, ESHA mapping (which is general in nature and not intended to delineate the exact location of ESHA on the ground). Further case by case analysis occurs during the permit process of applications for development.

Furthermore, Dr. Allen has noted that some potentially sensitive animal species can occur in this type of habitat, including the federally threatened red-legged frog, southwestern pond turtle, southern California steelhead trout, Least Bell's vireo, Pacific coast flycatcher, warbling vireo, and willow flycatcher. In addition, sensitive plants may occur in this area including Plummer's Baccaris, chaparral mallow, and white flowered

EXHIBIT 11
STB-MAJ-3-02
Correspondence with County

sticky Phacelia. This habitat area of Toro Canyon also serves as nesting and foraging habitat for raptors such as redtail hawks.

Thank you for allowing us the opportunity to provide input into the designation of this important habitat area under the Toro Canyon Plan. If you have any questions regarding the information our office has provided, do not hesitate to contact me. Please keep our office up to date on the process of the Toro Canyon Plan.

Sincerely,



Sabrina N. Haswell
Coastal Program Analyst

RECEIVED

JUL 21 2003

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

**Agricultural Feasibility of the Toro Canyon Area
Carpinteria, Santa Barbara County**

Prepared by George E. Goodall, Agricultural Consultant, Santa Barbara, CA

July 16, 2003

I. Introduction and Description

This report presents information on both the physical and economic feasibility of agricultural operations in the Toro Canyon area of Carpinteria Valley of Santa Barbara County. Particular attention is paid to the seven parcels comprising a total of 16.22 acres on the northeast corner of Toro Canyon Road and Foothill Road. The agricultural use of the land currently is to grow avocados.

Historically, the area has been planted to lemons and avocados since the 1920's, when Mr. Harry Drake developed water for this area and the flatter lands to the south. Subsequently, the whole region was made a part of the Montecito Water District in the late 1940's. Gradually, parcels were divided and divided until the area is now almost completely composed of rural residential lots of 1.0 acre or more, each with a home site. Many of the owners have tried to raise avocados or some other crop to offset their landscaping expenses, with limited success. The main difficulties encountered have been steep slopes, heavy clay soils, small parcel sizes, high costs of water, and other expensive production inputs. The very favorable, frost free, subtropical climate encourages the production of many special and exotic crops, except for the occasional strong, hot, dry down-canyon winds that damage the trees and scar the crops, especially at exposed sites.

The subject area is made up of 7 parcels with the following acreages and agricultural land uses:

- #155-14-13 1.84 ac Extensive excavation for new house construction, no ag production.
- #155-14-56 1.77 ac Mainly residential, about 20 remaining avocado trees.
- #155-14-57 2.96 ac Residential, with about 80 avocado trees, crops sold to offset costs, operate a small water well for irrigation.
- #155-14-58 1.00 ac Residential, about 5 remaining avocado trees.
- #155-14-38 5.65 ac Two residences, with about 240 avocado trees.*
- #155-14-39 2.00 ac Residential, with about 90 avocado trees.*
- #155-14-49 1.00 ac Residential, with about 20 avocado trees.*

* Avocado orchards on these three lots are operated by the Halls as a unit.

This report provides the economic viability analysis as required by Section 30241.5 of the California Coastal Act. Historical information and commodity outlooks are provided by the author from his over 50 years experience in the area.

RECEIVED

JU	EXHIBIT 12
S.	STB-MAJ-3-02
PLANNING	Agriculture Viability Report

II. Soils Are Non-Prime

The soil on all the parcels is mapped as *TdF2 – Todos-Lodo complex, 30 to 50 percent slopes, eroded* in the "Soil Survey of Santa Barbara Co, CA, South Coastal Part", USDA, 1981. The USDA Capability Class is *Vie-1, with severe limitations that make them generally unsuitable for cultivation*, which means it is definitely non-prime soil.

These soils are primary, weathered in-place on a soft sandstone and shale parent material with streaks of limestone running through from their marine origin. Trees grown on these soils are susceptible to limestone-induced, iron chlorosis, an incurable mineral deficiency. The eroded ridges show rock outcrops with very shallow soil. The hillsides have up to 18 inches of topsoil that is clay or clay loam with slow permeability. The subsoil is highly fractured soft shale or deeply shattered sandstone bedrock. The soil is easily eroded.

III. Crops Considered

The major soil and terrain limitations have made it possible to successfully grow only several specialty crops – avocados, lemons, and cherimoyas – and then only under certain favorable management and disease-free conditions. These shallow-rooted, subtropical orchard crops are aided by the favorable climatic conditions that offset the severe limitations of the land. The steep terrain eliminates the possibility of growing any of the vegetable and floral crops produced successfully in other parts of the Carpinteria Valley.

A. Lemons were originally grown here with marginal results and were quickly replaced with avocados when that crop became profitable in the 1960's and 1970's. The major limitations in growing lemons were low yields on shallow soils and high production costs (need for hand labor) on steep hillsides for picking, pruning, and spraying. Another problem was the scarring of the fruit by the strong down-canyon winds that reduced its desirability for fresh fruit sales.

Current lemon production is satisfactory only on deep soils (3-4 feet, that are level or nearly so (less than 12% slope), and in blocks larger than 20 acres (to facilitate mechanical equipment). Only growers that can meet these minimum requirements can sell through packinghouses located in Ventura County. Since these parcels are not even close to meeting these requirements, no further feasibility information will be given.

B. Cherimoyas are grown in several orchards east of the subject area with marginal results. This new commodity has very limited sales potential due to its being relatively unknown and very fragile and perishable. The groves to the east were planted 10 to 20 years ago mainly because the Cherimoyas are resistant to the Avocado Root Rot disease that was killing the avocados; this avocado disease will be discussed below. Also, the orchards to the east are sheltered from the wind much better than the subject parcels; cherimoyas are easily scarred by wind and thus made unmarketable.

The small cherimoya industry is centered in the better wind-protected areas of Carpinteria and in the Fallbrook area of San Diego County. The Fallbrook area growers developed outlets in the Los Angeles Wholesale Produce Market, which they dominate, but are not prospering by the reports that I receive. The only packinghouse in the area is located in Carpinteria and operated by the Brown Family. They pack and ship mostly their own production, most by air to international markets and buyers. Other local growers are able to sell mainly at the farmers markets and this is very limiting. The main complaint that I've heard is "I can't sell my fruit". There are no published economic data and Cherimoyas are not reported separately in the County Crop Reports. Almost no new orchards

have been planted in the past decade, so I have concluded that this specialty crop is not economically feasible on the subject properties.

C. Avocados are the crop of choice for this area, if conditions and management are right. The outlook for avocados on small, hillside orchards operated by hobbyists and part-time farmers that was relatively bright 20 to 30 years ago has changed. The avocado industry has matured. It has become international. Before 1990 the California industry marketed over 90% of the crop in the USA. Currently, Mexican, Chilean, and others imports provide over 40% of the fruit (CAC AvoGreensheet). This is not to say that avocados are not profitable, but they are a profitable crop for those that that can produce large yields for the summer market with efficient production practices and informed management.

The University of California Cooperative Extension has recently published (Jan 2002) a thorough report titled "Avocado Sample Establishment and Production Costs and Profitability Analysis for Ventura and Santa Barbara Counties". This will serve as the main reference basis of the cost of production information presented (available from the internet at www.cse.ucdavis.edu/). The County average comparison data presented for yields and income were taken from the Annual Crop Reports published by the Santa Barbara County Agricultural Commissioner. The avocado industry data is from the California Avocado Commission as presented in their Annual reports and AvoGreensheet.

IV. Income and Cost Analysis Study for Subject Area

In order to evaluate the subject area, it seemed logical to look at how the larger avocado grower within the boundaries was doing. Three parcels are owned and operated by Robert E. & Rosamond U. Hall of Newport Beach, CA. The Halls have about 3.5 acres of avocado trees out of a total acreage of 8.65; the remainder is occupied by 4 houses, long driveways, a small planting of dollar eucalyptus for foliage plant sale, and bare ground. They were very helpful and furnished to me many of the figures cited in the Tables that follow. Mrs. Hall was born and raised in a walnut, lemon, and orange grove in Carpinteria and continues to farm these avocado orchards. Her husband and she are experienced and competent growers.

As Santa Barbara County Farm Advisor, before I retired, I advised the Halls on their avocado orchard operation. I personally took the Avocado Root Rot disease samples in the 1970's to diagnose the presence of this disease in the soil on those parcels and recommended experimental replanting of avocado trees on the tolerant, clonal rootstocks. I told them that their soil was classified as a severe risk for this disease and that the new rootstocks were relatively untested. I also advised them that I did not know of another commodity that would do as well as the avocados on this site, if the grove could be managed to minimize the Root Rot disease. This water-borne, soil infesting fungus disease remains in the soil indefinitely and spreads with runoff and seepage water, as well with wet muddy soil that adheres to shoes, hooves, and equipment. They tried several ornamental crops including dollar eucalyptus but were unable to find a reliable market for this foliage plant. They have subsequently replanted many of the avocado trees, some as many as three times, using more resistant rootstock trees in hopes of finding a new one that may have enough resistance to grow well, the last being a clone named "Toro Canyon". They have given growing avocados an appropriate, conscientious effort and the results show that this disease prevents successful production at this site.

In Table 1 –Comparison of Avocado Yields and Income – the five year production record for the Hall's orchard is compared, on a per acre basis, to the Santa Barbara County and California industry averages. The Hall's average of 1,205 lbs/ac is only one-third of the County average and 20% of the

State average. The gross income per acre for the Halls averaged only \$705 compared to the County average of \$3,940 and industry figure of \$5,434.

On the cost side of the equation, Table 2 presents a summary of the University of California Cost of Production figures for Santa Barbara and Ventura Counties published in 2002. To adapt these figures to this grove and to the California Coastal Commission rules, Table 3 presents an adjusted annual cost of production of \$3,773 per acre. Comparing this to the Hall's average gross income per acre of \$705, gives a loss of over \$3,000 per acre per year; this clearly shows the uneconomic condition of this grove.

The question has been asked how the subject area compares to the on-going farming operations to the east. Most of these properties above Foothill Road are 20 acres or more and are devoted to avocado, lemon and cherimoya production. Based on my visual observations, I would conclude that they are not profitable and are struggling to care for the orchards in hopes that something will come along to bail them out. These sites have larger parcels, deeper soils, fewer rock outcroppings, less slope, and less wind than the Toro Canyon subject site.

V. Agricultural Rates of Return

The above losses shown by the Hall's figures illustrate two lessons of agricultural economics: 1) the severe losses that can be experienced by growers when their orchards on susceptible soils become infected with the Avocado Root Rot disease, and 2) the unprofitable nature of small sized, hillside groves operated by part-time farmers.

When one uses the UC Cost study with an assumed yield of 7,500 pounds per acre together with the average industry gross prices received for the past 5 years of \$0.95 per pound, the rate of return on the accumulated development costs of \$14,750 per acre is 10.75%. This is an acceptable rate of return for an agricultural commodity and measures the statement that avocados are a profitable crop. But, these figures are based on healthy, high producing groves that are efficiently farmed.

Also in the UC Cost Study, the break-even point is reached when the price drops below \$0.70 per pound or the yield drops below 4,000 pounds per acre.

VI. Discussion and Conclusion

Avocado industry leaders and advisors generally suggest that avocado groves of less than about 5 acres are likely to be so inefficient as likely to be unprofitable. The industry average grove size now exceeds 10 acres and is heading upward each year due to increasing costs and foreign importations.

Great strides have been made in combating the serious Avocado Root Rot disease, but no significant additional improvements can be expected in the near term. The current group of tolerant rootstocks is the most promising solution. But these are satisfactory only where soil conditions and management practices are favorable. None of the chemical treatments available are cost effective in California. Unfortunately, this subject area has severe risk soil conditions and the tolerant rootstocks are not sufficiently resistant to grow here, so that I conclude that this root rot infected area is not favorable for the growing of avocados.

To review, as requested in Section 30241.5 of the Coastal Act, the subject parcels are not economically feasible for agriculture because:

- 1) the gross revenues generated by growing avocados for the past 5 years has averaged \$705 per acre, and
- 2) the costs of production, excluding land charges, have averaged \$3,773 per acre.

This average loss of over \$3,000 per acre per year demonstrates the economic infeasibility.

The limited potential of satisfactory agricultural commodities for this area of steep sloped, heavy clay soils and small parcel sizes renders it unsuitable for commercial agriculture. The only identified possible crop is avocados and with the presence of the Avocado Root Rot disease in the heavy, clay soils, even this commodity drops out. Then too, the high cost of water, even at the agricultural rate from the Montecito Water District, is about twice as expensive as other growers in competing areas are paying. Add in the wind scarring on this exposed ridge that makes the fruit less marketable, one cannot help but conclude that continuing an agricultural designation on this area is inappropriate.

Please contact me if you have questions or if I can furnish additional information.

Encl: Tables 1, 2, & 3

Table 1
Comparison of Avocado Yields and Income
for the Hall Orchard with County & Industry Averages

Year	Hall Orchard				S B County Average		Calif Industry Average	
	Yield		Income		Yield	Income	Yield	Income
	Total lbs	per acre	Total \$	per acre	per acre	per acre	per acre	per acre
97-98	1,072	306	\$1,357	\$388	3,340	\$3,372	5,091	\$4,360
98-99	3,775	1,079	\$2,897	\$828	4,040	\$5,153	4,572	\$5,536
99-00	456	130	\$515	\$147	2,340	\$2,692	5,444	\$5,755
00-01	13,009	3,717	\$5,690	\$1,626	4,380	\$4,030	7,203	\$5,374
01-02	2,778	794	\$1,881	\$538	5,600	\$5,213	6,865	\$6,145
5-yr Av	4,218	1,205	\$2,468	\$705	3,940	\$4,092	5,836	\$5,434

Sources: Hall's: Calavo Annual Stmts, bearing acreage = 3.5 acres
 S B County: Ag Production Reports, S B Co Ag Comm, annually
 CA Industry: Calif Avo Commission Annual Report, 2001/2002

Prepared by G E Goodall, Ag Consultant, Santa Barbara, CA, 7/16/03

Table 2
Mature Avocado Orchard Costs of Production
 Santa Barbara & Ventura Counties
 Based on 108 trees/ac, 7,500 lbs/ac yield
 Figures include labor, materials, and equipment

Operation	Cost per acre
Cultural Costs:	
Pruning & Brush Removal	\$324
Weed Control	\$85
Pollination, Bee Hive Rental	\$70
Erosion Control	\$17
Insect Pest Control	\$290
Fertilization	\$48
Irrigation Water & Labor	\$532
Pest Control Advisor	\$60
Rodent Control	\$23
Subtotal	\$1,449
Harvesting Costs:	
Picking, 7,500 lbs yield	\$600
Hauling to Packing House	\$30
CAC Assessment Fee, 3.5%	\$263
CDFA Inspection Fee	\$8
Subtotal	\$901
Cash Overhead Costs:	
Insurance, Liability, Workers	\$98
Laboratory Analysis Fees, nutrients	\$13
Sanitation Fees	\$44
Office Expenses, phone	\$180
Property Taxes, Williamson Act	\$247
Repairs & Maintenance	\$84
Interest on Operating Capital, 8.5%	\$172
Subtotal	\$938
Total Cash Costs	\$3,186
Non Cash Overhead Costs:	
Depreciation on Equipment	\$25
Depreciation on Buildings	\$73
Depreciation on Irrigation System	\$75
Depreciation on Trees	\$1,130
Land Rent	\$1,051
Subtotal	\$2,354
Total Costs per Acre	\$5,540

Source: "Avocado Sample Establishment & Production Costs for Ventura & Santa Barbara Cos", by E. Takele & B. Faber, UCCE, Jan 2002.

Adapted by G E Goodall, Ag Consultant, Santa Barbara, CA, 7/16/03

Table 3
Adjusted Avocado Costs of Production Per Acre To
Toro Canyon Area, Carpinteria

Based on UC Cost Study & Adjusted with Hall Orchard Figures

Item	Source / Reason	UC Study	Hall's	Change	Adjusted Costs / Acre
Total Costs	UC Study	\$5,540			
Less: Lant Rent	Coastal Comm Rules			-\$1,051
	Total UC Study Costs without land				\$4,089
Add: Higher Water Costs					
UC Study 2.5 AF/A @ \$205 /AF, water only		\$510			
Hall Orchard - Montecito W D, 5-yr record*			\$826	\$316	
Less: Lower Harvest Costs					
UC Study \$0.08 / lb on 5,500 lbs		\$600			
Hall's Calavo 5-yr average records			\$205	-\$395	
Less: Lower CAC Assessment					
UC Study 3.5% of income		\$263			
Hall's Calavo 5-yr average records			\$26	-\$237	
Total Adjusted Costs per acre					<u>\$3,773</u>

Sources: UC Study - "Avocado Production Costs, Ventura/Santa Barbara Cos, 2001", by Takele, Faber, & Chambers, UCCE, 2002.
 Coastal Comm Rules - Coastal Act, Sec 30241.5 (c) (2).
 Hall's Montecito Water District 5-yr record - see below*
 Hall's Calavo Annual Stmts '97-'98 to '01-'02.

***Water Costs for Hall Orchards - printout from Montecito Water District:**

Year	Amt Used AF	Total Costs	Cost/AF	Cost/acre
1998	1.5	\$2,337.93	\$1,559	\$668
1999	2.56	\$3,664.54	\$1,431	\$1,047
2000	0.81	\$2,698.00	\$3,331	\$771
2001	1.25	\$2,864.89	\$2,292	\$819
2002	1.07	\$2,893.72	\$2,704	\$827
5-yr Average	1.44	\$2,891.82	\$2,263	\$826

Prepared by G E Goodall, Ag Consultant, Santa Barbara, CA, 7/16/03

CALIFORNIA COASTAL COMMISSION

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



MEMORANDUM

FROM: John Dixon, Ph.D.
Ecologist / Wetland Coordinator

TO: Shana Gray

SUBJECT: ESHA Designation in the Toro Canyon Area, Santa Barbara County

DATE: September 22, 2003

Materials reviewed:

January 1988. M. A. Holmgren (consulting vertebrate biologist) and D. Rindlaub (consulting botanist). "Biological evaluation of a Toro Canyon Oak Woodland, 275 Toro Canyon Road, Carpinteria, California 93013." A report to the County of Santa Barbara.

February 16, 2002. Condor Environmental Planning Services, Inc. "Torito Road Habitat Evaluation." A report prepared for 10 property owners in the Torito Road Neighborhood of Toro Canyon.

June 14, 2001. L. Levin, Ph.D. (Torito Road property owner). "ESH in the Torito Road Subdivision." A letter submitted to the Santa Barbara County Board of Supervisors on June 15, 2001.

The natural vegetation bounding the streams in this area is characterized as Southern Coast Live Oak Riparian Forest. This type of vegetation provides very important ecological services in the dry Mediterranean climate of southern California. Some species are more or less restricted to the habitat type and others use it seasonally or as a movement corridor. For example, the insect community associated with riparian vegetation appears to be qualitatively different from that of surrounding more upland communities, some bird species live and breed within riparian areas, and many other bird species annually move from drier upland scrub habitats to riparian areas during seasonal periods of drought. The Coastal Commission generally has considered streams and their associated riparian corridors to meet the definition of Environmentally Sensitive Habitat Areas (ESHA) under the Coastal Act.

The riparian vegetation in much of the Toro Canyon area should be characterized as degraded Southern Coast Live Oak Riparian Forest. Most of the habitat-defining canopy trees are still present, however in many areas the habitat has been severely degraded by the remarkably inappropriate siting of residential development 50 years ago. Some homes were even built immediately adjacent to stream banks, effectively converting some reaches of the stream to a backyard amenity. The legacy of this

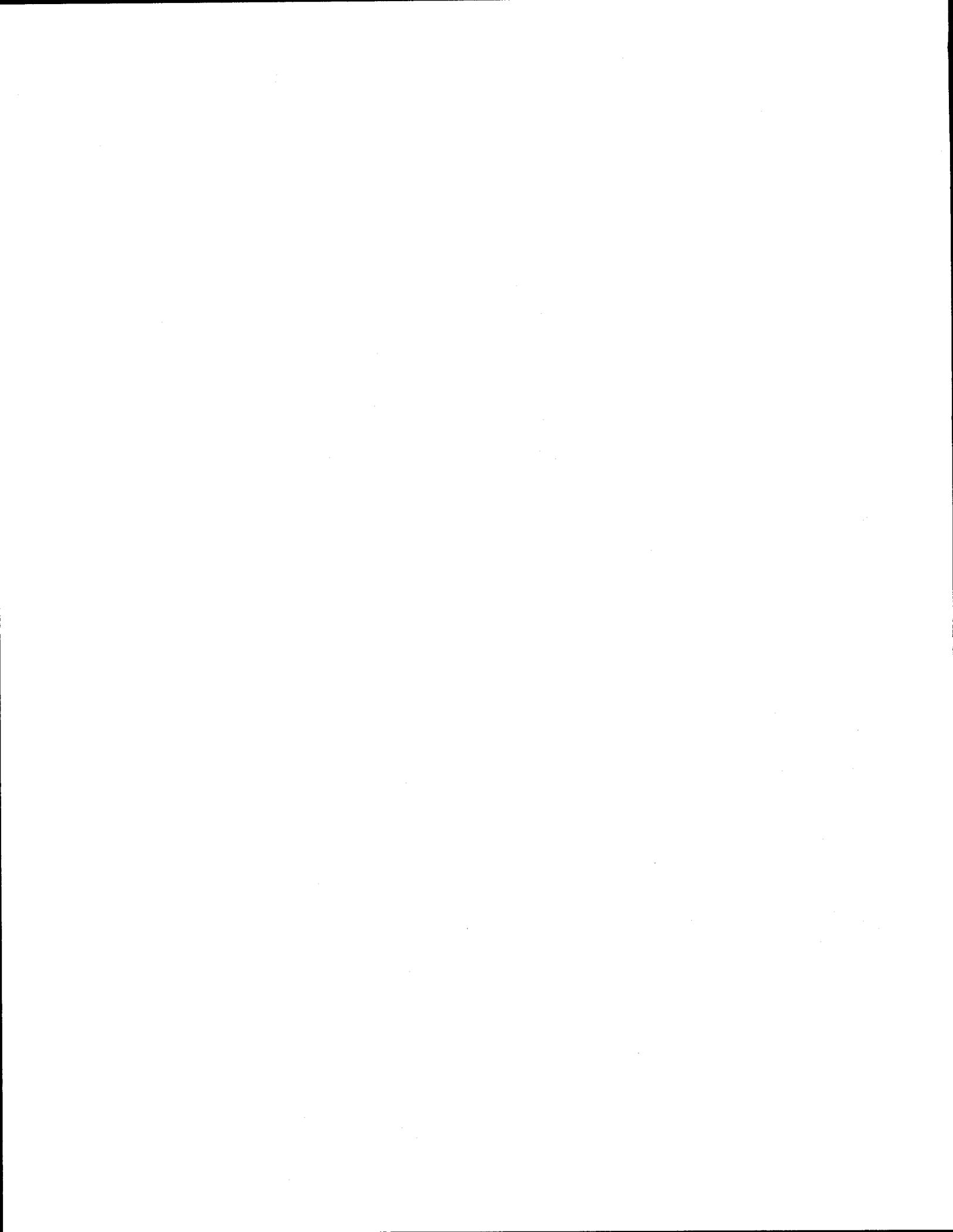
EXHIBIT 13
STB-MAJ-3-02
Memo from Staff Biologist

development is a riparian forest with an understory characterized by a paucity of native species, little natural recruitment of riparian trees, and significant amounts of exotic vegetation, and interspersed with roads, agricultural plots, and many structures and impermeable surfaces. Nevertheless, the remaining sycamores and oaks are relatively dense, create a nearly closed canopy over large areas, and continue to provide valuable habitat, certainly for the avifauna and probably for the insect community. The riparian forest is probably less important to ground-dwelling vertebrates due to the development of the understory, the fragmentation of the larger habitat, and the presence of many roads. In general, the ecological significance of the remaining degraded riparian forest probably increases with proximity to the streams and with distance from existing development. The riparian trees along the stream corridor provide especially important ecosystem functions by controlling the microclimate of the stream itself and by providing important canopy habitat near a predictable source of water.

I recommend that the ESHA designation be applied to the streams to the top of the bank and to adjacent riparian woodland outside development footprints¹, even where the forest is significantly degraded. County staff prepared a revised ESHA boundary dated July 5, 2001 that apparently was intended to maintain the edge of mapped ESHA outside developed footprints. I recommend that that boundary line be accepted as the ESHA boundary, with provision for site-specific revisions where development is found to fall within the boundary as currently drawn. Buffers required by the County should be measured from the stream bank or from the edge of riparian ESHA, whichever is the greater distance.

In order for the riparian ESHA to continue to have an especially valuable role in the ecosystem, the individual trees that define the remaining Southern Coast Live Oak Riparian Forest must be protected. Section 30240(b) of the Coastal Act requires that development adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade that ESHA. In the present context, damage or removal either of canopy-producing trees within the ESHA buffer or of trees outside the buffer that form part of a continuous canopy with the ESHA would constitute such an impact. Modest trimming or pruning to maintain existing land uses or for safety reasons would not cause significant impacts. Also, were there an administrative vehicle to accomplish it, there should be a neighborhood management plan for the riparian oak forest to insure that tree recruitment takes place, through natural or artificial means, and to encourage the use of native understory species.

¹ By "development footprint" I mean the area covered by legally permitted development including buildings and other structures, hardscaping, such as retaining walls and driveways, and landscaping.



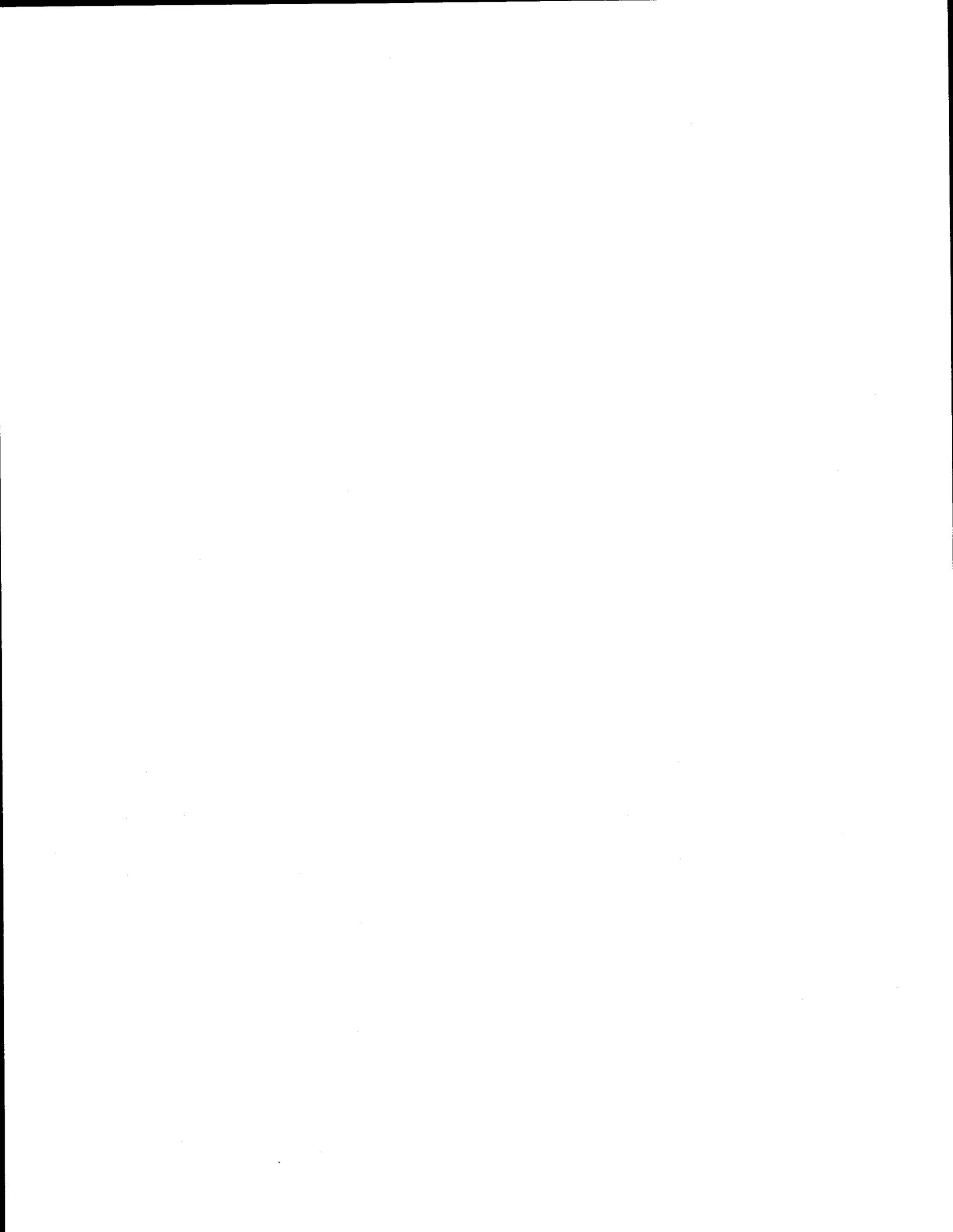
Existing and Proposed ESH

-  Southern Coast Live Oak Riparian Forest or Streams
-  Coast Live Oak Forest
-  Coastal Sage Scrub
-  ESH designated in the certified LCP
-  Areas of Potential Biological Merit Requiring Further Study during Permit Review

(Within these areas, the mapped ESH extent along streams is intended to represent the "Top of Creek Bank" only; the extent of any associated riparian habitat must be determined by site-specific review)

Exhibit 15
STB-MAJ-3-02
Torito Road Rural
Neighborhood ESH





Approx. Area 30% or greater slopes with native chaparral within the Coastal Zone

Toro Canyon Plan Proposed Coastal Zone Boundary Adjustment

Legend

- Proposed Coastal Zone Boundary Adjustment
- Proposed Ammended section recommended by Coastal Commission Staff
- Official California Coastal Commission Coastal Zone Boundary
- Toro Canyon Plan Boundary

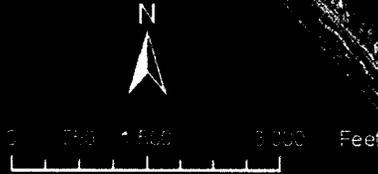
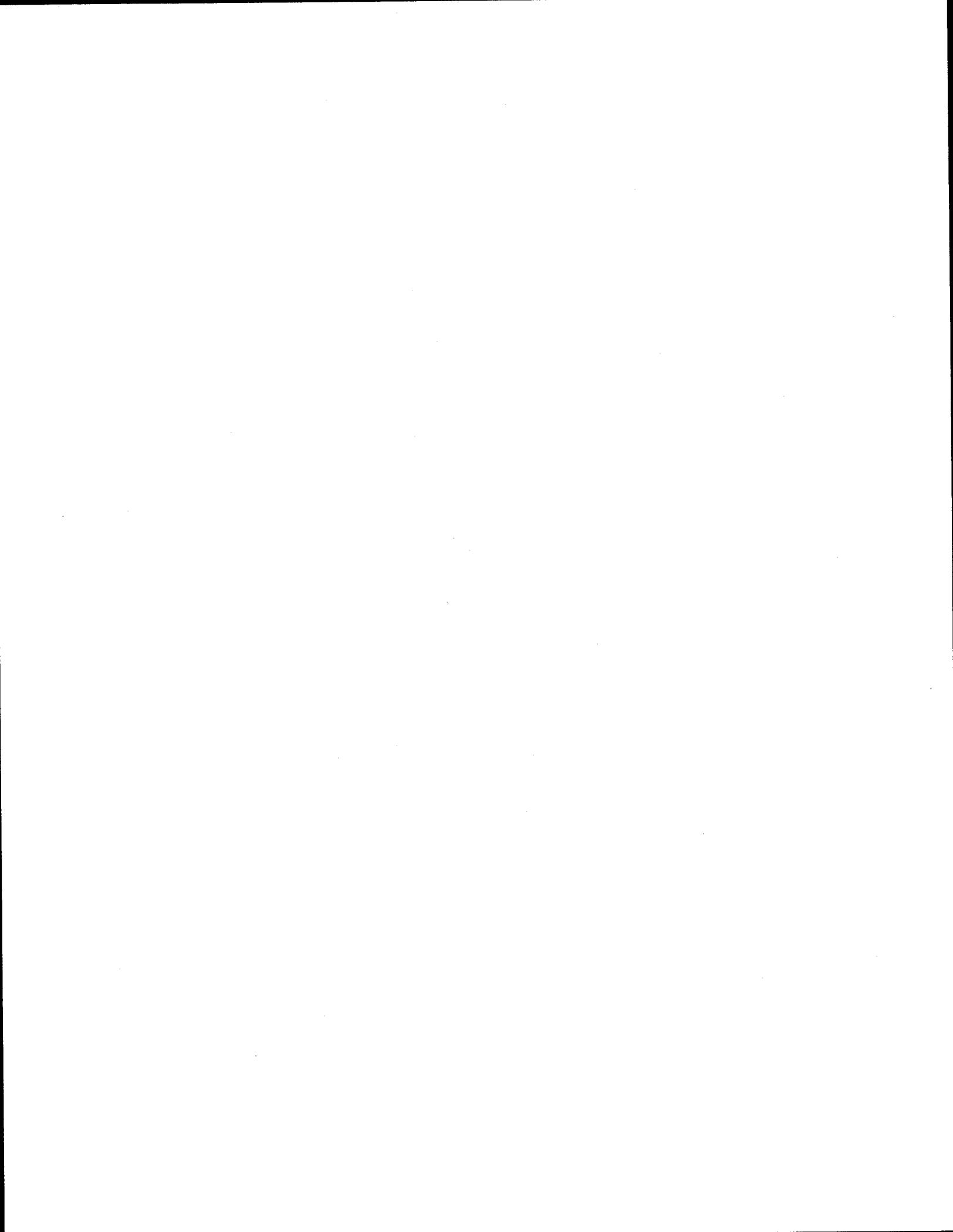


Exhibit 16
STB-MAJ-3-02
Toro Canyon Plan
Aerial Photo

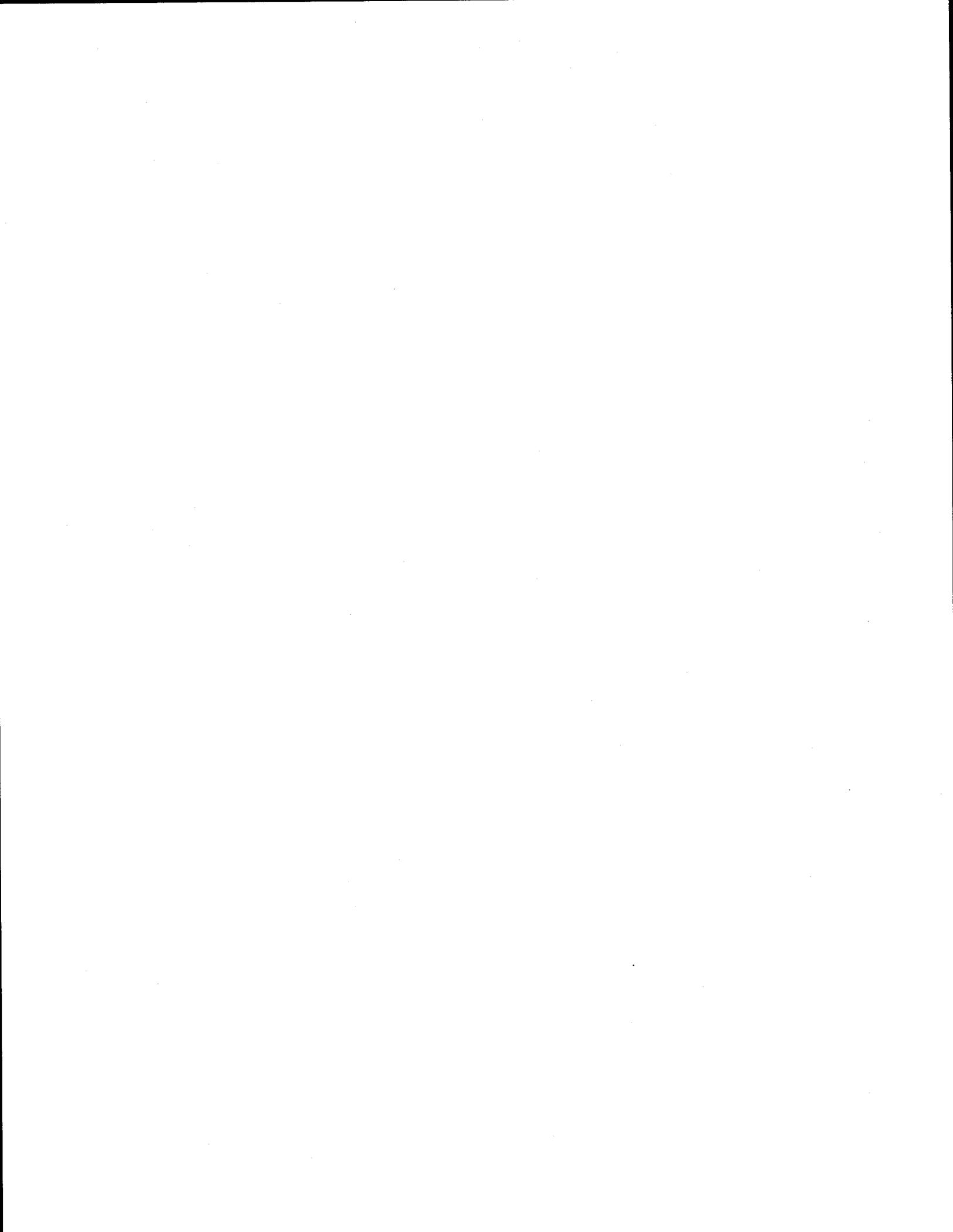




Policies Excluded From LCP Certification:

Policy LUG-TC-5
DevStd LUG-TC-5.1
DevStd LUG-TC-5.2
DevStd LUA-TC-3.2
Policy PS-TC-1
Action PS-TC-1.1
Action PS-TC-1.2
DevStd PS-TC-1.3
Policy PS-TC-2
Action PS-TC-2.1
Policy PS-TC-3
Action PS-TC-3.1
Policy BIO-TC-7
Action BIO-TC-7.1
DevStd BIO-TC-7.2
DevStd BIO-TC-7.3
DevStd BIO-TC-7.4
DevStd BIO-TC-7.5
DevStd BIO TC-7.6
DevStd BIO-TC-7.7
DevStd BIO-TC-7.8
Policy BIO TC-8
Policy BIO-TC-9
Policy BIO-TC-10
Policy HA-TC-2
Action HA-TC-2.1
Action HA-TC-2.2
DevStd HA-TC-2.3
Action HA-TC-2.4

Exhibit 17
STB-MAJ-3-02
Policies Excluded From Certification



CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



DATE: September 24, 2003

TO: Commissioners and Interested Persons

FROM: Charles Damm, Senior Deputy Director
Gary Timm, District Manager
Melanie Hale, Supervisor, Planning and Regulation
Shana Gray, Coastal Program Analyst

SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02 (Toro Canyon Planning Area) for Public Hearing and Commission Action at the Wednesday, October 8, 2003 Commission Meeting in Coronado.

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the Land Use Plan and Implementation Plan portions of its certified Local Coastal Program (LCP) to designate the Toro Canyon Planning Area (hereafter "Toro Canyon"); add associated Toro Canyon goals, policies, actions, and development standards as described in the Toro Canyon Plan (hereafter "Plan"); and adopt implementing zoning district and overlay maps. Toro Canyon is located in southeastern Santa Barbara County, in the western portion of the Carpinteria Valley between the Santa Ynez Mountains and the Santa Barbara Channel. The amendment will result in changes to the certified Santa Barbara Coastal Land Use Plan (hereafter referred to as the LUP/CP) and to the certified Santa Barbara County Coastal Zoning Ordinance (hereafter referred to as the IP/CZO).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing, **deny** the amendment to the certified LCP as submitted; then **approve, only if modified** as revised by the suggested modifications. As submitted the Land Use Plan and Coastal Zoning Ordinance amendments are inconsistent with various policies in Chapter Three of the Coastal Act pertaining to land use, agriculture, hazards, public access, visual resources and protection of coastal waters and environmentally sensitive habitat areas. As modified the amendment is consistent with Chapter Three of the Coastal Act. The motions to accomplish this recommendation begin on **page 13**. The suggested modifications begin on **page 16**.

STAFF NOTE: ANTICIPATED AREAS OF DISCUSSION

Commission staff and representatives of the County of Santa Barbara have endeavored to reconcile this Local Coastal Program Amendment with the requirements of the Coastal Act and the County's planning objectives. Where possible, clarifications and suggested revisions have been incorporated into this report. Although much of the amendment is consistent with the Chapter Three policies of the Coastal Act, many of the suggested modifications are supplemental policies, or in the case of water quality, a new topic area has been added where staff deemed necessary to conform the proposed amendment to the Commission's directives to achieve Coastal Act consistency. The County staff asserts that many of these policies would more appropriately be applied to the overall LCP, not individual Area Plans such as the Toro Canyon Plan. Staff agrees that in many cases the modifications would also apply to the entire LCP. However, the County has not submitted the LCP for consideration and therefore the modifications properly only apply to the Area Plan for which certification is pending. Staff notes that the LCP was certified in 1981 and a comprehensive update has not been completed since that time. The County staff indicates that no comprehensive amendment will be forthcoming in light of current fiscal constraints. Thus staff recommends that even modifications that would serve well on a countywide basis be considered by the Commission where the opportunity arises.

The major issue areas raised by the current amendment are summarized below:

Watershed Protection

Protection of coastal watersheds is a primary objective of the Coastal Act as initiated through many of the Chapter Three policies including 30230, 30231, 30233, 30236, 30240, 30250, 30251, and 30253 (see Section E.7 "Watershed Protection"). Much of the Toro Canyon Plan area is characterized by steep foothills protected by a large expanse of mostly undisturbed, deeply rooted chaparral vegetation descending to the high quality alluvial soils in the coastal valley below. Land uses are predominantly open space and agriculture with disjunct clusters residential development and three small commercial areas.

Though the protection of watershed resources cannot be reduced to just one solution, land use constraints in the Toro Canyon Plan area hinge, in large part, on topographic constraints. Lands particularly unsuited for intensive development in Toro Canyon Plan area include lands that have steep slopes of 30 percent or greater (see Exhibit 9). The trends toward larger residential developments (recognized by County FEIR as those residences sized between 5,000-20,000 sq. ft.) and the gradual expansion of agriculture onto steeper slopes have contributed to increased surface runoff, erosion, downstream siltation, and hillside scarring.

To protect watershed functions and rural character, staff is recommending a Watershed Protection Overlay (WTR) District to identify where further land use intensification is inappropriate given the steep slopes and adverse impacts to hillsides, streams, and other downstream coastal resources. The WTR Overlay District prohibits new development on lands within the coastal zone portion of the Toro Canyon Planning Area having slopes 30% or greater. However, where all feasible building sites are constrained, the County may permit development that is scaled, sited, and designed to minimize impacts to coastal resources consistent with various development standards. For example, new development

would be required to be sited and designed to minimize grading, alteration of physical features, and vegetation clearance to the maximum extent feasible. The maximum allowable development area where all feasible building sites on a legal parcel include 30% slope or greater, would be 10,000 sq. ft. or 25% of the parcel size, whichever is less.

The WTR Overlay District is intended to ensure that all development in such areas is designed and carried out in a manner that (1) provides maximum protection to coastal waters and downstream properties; (2) preserves rural character and public views; and (3) limits development in areas constrained by lack of adequate services and access, and geologic and fire hazards.

ESH Map

A contentious part of the proposed amendment has been the Environmentally Sensitive Habitat (ESH) Map. This was apparent during the County's extensive hearing process. As stated by the County, the purpose of any Plan-level ESH Map is to identify the general likelihood of encountering important biological resources that would require site-specific investigation at the time of proposed development on a specific parcel. The ESH Map for the Toro Canyon Plan was compiled using a combination of aerial photograph interpretation, including the use of staff's field experience from reviewing past development projects, regional biological studies, biological reports prepared for past projects, and individual site inspections. Given that the certified LCP ESH Map is more than 20 years old, and the extensive improvement in technology and information, the accuracy of the ESH Map is much improved.

However, there is one major point of controversy with regard to the County's mapping effort. The Southern Coast Live Oak Riparian Forest ESH limits the designation of ESH to the "top of creek bank only" where the ESH goes through Existing Developed Rural Neighborhoods. As the Commission has found in the past, riparian species adjacent to a stream course provide significant resource value because of their ability to provide habitat for avifauna and other species in proximity to the available water supply, ability to provide connectivity with other habitats and their buffering effects against sedimentation and polluted urban runoff. Thus, streams and adjoining riparian vegetation directly provide important habitat in the generally dry Mediterranean climate of Santa Barbara County, and offer habitat corridors to other habitats (thus facilitating wildlife movement and gene flow), in addition to protecting the quality of coastal waters. Therefore, restricting the designation of ESH to the stream corridor only is not consistent with the Coastal Act, and staff is recommending that the riparian corridor be designated as ESH. There is some concern on behalf of the property owners that existing lawfully constructed development in and amongst the riparian areas will be designated as ESH. This concern is addressed in the Toro Canyon Plan which requires a site-specific biological study and an on-the-ground determination of ESH during the application for new development. Such development would be subject to the policies applied to areas adjacent to ESH and/or ESH buffers, however, such development itself would not be considered ESH.

Secondly, there are two major areas of debate with regard to the proposed ESH buffers: (1) the measurement approach for *Southern Coast Live Oak Riparian Forest* ESH buffer and (2) ability to adjust any of these *minimum* buffer areas downward. As proposed under this LCP amendment, the buffer from Southern Coast Live Oak Riparian Forest is proposed to

be measured from the top of the creek bank. However, since the riparian forest ESH designation would incorporate the associated riparian canopy, as recommended by staff, the top of creek bank would not be an accurate means of delineating the ESH buffer. As recommended by the Commission's biologist (Exhibit 13), the buffer must be measured from the edge of riparian ESH or stream bank, whichever is the greater distance.

The County has proposed language to allow ESH buffers to be reduced on a case-by-case basis, in consultation with other agencies such as County Environmental Health Services, the Flood Control District, Department of Fish and Game, and the Regional Water Quality Control Board. Staff notes that *minimum* ESH buffer standards are necessary to ensure the protection of environmentally sensitive resources and any subsequent reduction to the buffer may adversely impact resources. Therefore staff is recommending that such minimum standards be assured to protect resources.

Reasonable Use

The LCP submittal incorporates "takings" language that authorizes exceptions to the policies and standards of the Toro Canyon Plan where application of such standards would preclude "reasonable use of property." This language creates a very broad exception to the proposed policies and standards, and therefore staff is recommending the deletion of this language throughout the document. The only appropriate exception to policies or standards that are required to comply with policies of the Coastal Act is when it is necessary to avoid an unconstitutional taking of private property. The deletion of the County's general "takings" language, as required above, will not preclude reasonable use of property. To address issues where it is known that the ESH policies would preclude development on vacant parcels, and where exceptions may be necessary to avoid an unconstitutional taking of private property, staff has recommended modifications which will allow applicants to demonstrate that an exception to an ESH policy or standard is necessary to avoid a taking. Such a review would require detailed information to determine whether application of the ESH policy or standard would be a taking, and if so, to determine the extent of development that must be allowed to avoid a taking.

Non-Conforming Structures

The nonconforming structure policies proposed under this LCP amendment broaden the definition as provided in the certified LCP. The proposed amendment would allow partial or complete reconstruction or structural repair of residential structures (including primary dwellings, secondary dwellings, and all attached appurtenances that share at least one common wall with the residential structure) and agricultural support structures (any structures that is essential to the support of agricultural production on agriculturally zoned property) due to normal wear and tear, if the residential structure is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted as a result of the Toro Canyon Plan. Additionally, the proposed amendment allows for the expansion of nonconforming residential or agricultural support structures within ESH or ESH buffer areas. Section 30610 of the Coastal Act allows for the rebuild of any lawfully established structures, including legal non-conforming structures, in the event of a disaster. This provision does not include restoration or replacement of structures for normal wear and tear. The voluntary tear down and rebuild of structures would, in almost every case, require discretionary review consistent with the LCP standards. This would hold true for legal

conforming structures as well as structures that are non-conforming. Furthermore, the proposed exception to allow additions to nonconforming agricultural structures into ESH and ESH buffer is not consistent with Section 30240. Staff recommends against the liberalization of nonconforming structure provisions, with one exception.

If modified as suggested, additions to lawfully established nonconforming *primary residences* in Existing Developed Rural Neighborhoods within ESH buffer have been granted limited exception to the nonconforming structure policy to allow minor additions and reconstruction in the same exact development envelope (footprint, height, bulk) if it can be shown, pursuant to the required site-specific biological study, that such development would not adversely impact the adjacent riparian species and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additionally, such development must be sited and designed to meet specific standards (e.g., no removal or limbing of oak or sycamore trees) that are protective of the adjacent riparian canopy. The above limited additions and reconstruction, as detailed in this staff report, are restricted in a manner to prevent adverse impacts to ESH and would be compatible with the continuance of adjacent ESH areas, consistent with Section 30240. These provisions do not authorize new development in ESH which is not possible under Section 30240(a).

Water Quality

The Commission has directed through past actions that new projects and LCP amendments incorporate conditions and/or policies that will ensure the protection of water quality consistent with Sections 30230 and 30231 of the Coastal Act. In this case, the proposed LCP amendment is a comprehensive Specific Plan for the Toro Canyon Plan area, including approximately 2,150 acres within the coastal zone. The Toro Canyon Plan is constrained by steep slopes surrounding the coastal valley, and land use practices have contributed to loss of sensitive habitat, erosion, and resultant downstream sedimentation and adverse water quality impacts. New development in Toro Canyon has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Therefore, staff is recommending the inclusion of new policies that address siting and design of septic systems (i.e., on-site treatment systems); Best Management Practices (BMPs) for stormwater runoff; site design principles for protecting natural resources, and measures to ensure that specific types of development do not adversely affect water quality.

To the extent possible, staff has worked with County staff to apply appropriate water quality provisions within the Plan area under this LCP amendment. County staff has stated that they are already implementing most of these policies through their Storm Water Management Plan and, therefore, has requested that modifications proposed by staff not be included in the LCP amendment. However, given that the Stormwater Management Plan is not certified under the existing LCP, there is currently no mechanism for implementation of such policies recognized under Coastal Act requirements. Therefore the appropriate water quality policies, development standards, and actions have been retained as necessary to adequately protect coastal waters. Staff has encouraged the County to consider a future LCP amendment that would incorporate water quality programs they believe meet the

requirements of the modifications and to make such amendments countywide under the LCP.

Agriculture

Staff notes that the following clarification regarding certain agricultural practices is necessary to ensure that the County processes coastal development permits for such activities as presently required under the existing LCP, and that these standards are thus reflected in the policies and provisions for new development under the Toro Canyon Plan. As defined in the certified LCP, the Hillside and Watershed Protection policies of the certified LUP specifically define "major vegetation removal" as the removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more (emphasis added). Furthermore, the hillside and watershed policies affirmatively state that policies shall apply to all construction and development, including grading for agricultural and non-agricultural purposes which involve the movement of earth in excess of 50 cubic yards.

Therefore, by definition, agricultural activities that require 50 cubic yards of grading (excluding crop rotation, harvesting, and other management practices for existing lands in production) and/or the cumulative removal of ½-acre of vegetation are "development" subject to the coastal development permit requirements of the existing LCP. It is not clear whether the *cumulative* nature of this definition has been consistently applied by County staff to mean vegetation removal over the cumulative course of agricultural practices on a subject site. Such removal may accrue incrementally and thus should trigger the developing of "development." As a result, where the term "development" or "new development" is discussed in the LCP, agricultural development meeting the above definition of agricultural development is included.

Conversion of Agricultural Lands

The County is proposing to rezone seven parcels from agriculture (40-acre minimum parcel size) to Single Family Residential Minimum 2 acre. These parcels, comprising a total of approximately 16 acres, are located northeast of the intersection of Foothill and Toro Canyon Roads. The new designation would allow one additional lot split. However, the parcels are located on 30% slopes, which pursuant to the Watershed Protection Overlay District, have been identified in this area as lands that are unsuited for intensified development. While the slope and size of parcels may constrain agricultural production, and the economic viability of the subject parcels in the future may be questionable, the existing agricultural designation does not preclude residential development on legal parcels, as would be allowed under the proposed residential designation. Retaining the agricultural designation however eliminates the ability for any further division of the parcels.

Additionally, the conversion is not consistent with Section 30241 requirements because it does not provide a *stable* boundary between agriculture and residential uses. Because of the residential development pressures in the Plan area, delineating stable boundaries and clearly defined buffer areas are necessary to avoid conflicts that will adversely impact the long-term productivity of the region's agriculture. The conversion of the proposed parcels would represent attrition of the long-term viability of agriculture in Toro Canyon by cumulatively converting agricultural parcels to residential parcels, and not providing an

adequate buffer to minimize conflicts with the larger agricultural parcels. Staff recommends against the conversion of these agricultural parcels to residential parcels.

SUBSTANTIVE FILE DOCUMENTS: Santa Barbara County Coastal Plan (January 1982; with updates through 1999); Santa Barbara County Coastal Zoning Ordinance, Article II, Chapter 35 of the County Code. Resolution No. 02-065 of the Board of Supervisors, County of Santa Barbara, State of California, *In the matter of submitting to the Coastal Commission Amendments to the Text and Maps of the Santa Barbara County Local Coastal Program*, passed, approved, and adopted by the Board of Supervisors February 25, 2002; Ordinance 4448, *Case Number 00-OA-005*, adopted by Board of Supervisors February 25, 2002; Ordinance 4449, *Case Number 00-RZ-002*, adopted by the Board of Supervisors February 25, 2002; Office of County Counsel Memorandum, August 30, 2000, *Nonconforming lots and structures in the Toro Canyon Plan Area*;

Additional Information: Please contact **Shana Gray**, California Coastal Commission, South Central Coast Area, 89 So. California St., Second Floor, Ventura, CA. (805) 585-1800.

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LIST OF EXHIBITS

- Exhibit 1.** County Resolution 02-065 for Submittal of LCP Amendment
- Exhibit 2.** County Resolution 02-062 for Proposed LUP/CP Amendments
- Exhibit 3.** Proposed Zoning Ordinance Amendments (Ordinance No. 4448)
- Exhibit 4.** Proposed Zoning Map Amendments (Ordinance No. 4449)
- Exhibit 5.** ESH Map Changes Butterfly (As Suggested in Modifications No. 161 and 166) and Kelp (As Suggested in Modifications No. 163 and 168)
- Exhibit 6.** ESH Map Changes Wetland (As Suggested in Modifications No. 162 and 167) and Monarch Butterfly (As Suggested in Modifications No. 161 and 166)
- Exhibit 7.** Urban / Rural Boundary Maps
- Exhibit 8.** Toro Canyon Plan ESH Map
- Exhibit 9.** Toro Canyon Plan Steep Slopes Map
- Exhibit 10.** Correspondence Dr. Meade to County Staff
- Exhibit 11.** Correspondence Coastal Commission to County Staff
- Exhibit 12.** Agriculture Viability Report
- Exhibit 13.** Memo from Dr. John Dixon Regarding ESHA

LIST OF ATTACHMENTS

- Attachment A.** Toro Canyon Plan

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30513(c))

The Coastal Act further provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)

The standard of review that the Commission uses in reviewing the adequacy of the land use plan is whether the land use plan is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County held 25 public hearings and two public workshops and received written comments regarding the project from concerned parties and members of the public. The hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of the California Code of Regulations, the County resolution for submittal may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (Section 13544.5; Section 13537 by reference;). Pursuant to Section 13544, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission CERTIFY Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan, as submitted by the County of Santa Barbara.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is

not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission **CERTIFY** Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan, if modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY IF MODIFIED:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY THE LAND USE PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

III. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION III: *I move that the Commission reject the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION IV: *I move that the Commission certify County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 if modified as suggested and adopts the findings set forth below on grounds that the Implementation

Program with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

IV. INTRODUCTION TO SUGGESTED MODIFICATIONS

Suggested Modifications: The staff recommends the Commission certify the following, with modifications as shown below. Language as submitted by the County of Santa Barbara is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Suggested modifications to revise maps or figures, or other instructional changes are shown in italics. Text *not* intended to be included as part of the modification which provides an internal reference or other orienting information is shown in [brackets].

Commission Review of Narrative Text: The Toro Canyon Plan amendment can be divided into two major categories. The first is narrative, which describes the Toro Canyon Plan Area, special issues with the Toro Canyon Plan Area, and the general basis for the various standards and policies contained in the Toro Canyon Plan amendment. The second consists of the actual standards and policies. It is this second division which is the focus of Commission review.

The proposed Toro Canyon Plan LCP amendment contains four levels of policy, titled "goals," "policies," "actions," and "development standards." All four of these levels are to be considered enforceable policies. Therefore, the standard of review for the County in permitting development under the LCP will be all goals, actions, policies, and development standards (as well as other implementing actions), with the exception of those marked with an asterisk in the Suggested Modifications section below. Any policies or map language designated as non-coastal are issues that are not addressed under the Coastal Act or are specific to areas outside of the Coastal Zone, and therefore are excluded from the certification of the LCP Amendment. For that reason, those policies are not analyzed as part of this submission.

Revisions to the policies, made through suggested modifications, in certain circumstances may make the background narrative obsolete. Descriptive narrative no longer consistent with the policies will need to be revised by the County to conform to the narrative of any associated policy that has been revised through suggested modifications as part of the submission of the final document for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Organizational Notes: The addition of new policies or the deletion of policies (as submitted) will affect the numbering of subsequent policies, actions, or development standards when the County of Santa Barbara publishes the final Toro Canyon Plan incorporating the Commission's suggested modifications. This staff report will **not** make revisions to the policy numbers. The County will make modifications to the numbering system when it prepares the revised LCP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Global Text Suggested Modification: As submitted, the Toro Canyon Plan contained supportive narrative describing the basis for many policies. Some of these policies have been modified as a result of this Commission action. Consequently, the corresponding supportive narrative may no longer be relevant for supporting modified policies. The Commission empowers the County with the approval of the Executive Director to revise supportive narrative so that it will be consistent with the policies of the LCP amendment as modified through the suggested modifications. Since this policy refers to a global text revision, once the global text revisions are made, this policy does not need to be included in the amended Toro Canyon Plan. The modified narratives, however, must be approved by the Executive Director and reported to the Commission before taking effect.

Organization of Suggested Modifications Below: The Toro Canyon Plan groups the Plan elements into three "super elements:" the Land Use Element, Public Facilities and Services, and Resources and Constraints. Modifications under Headings 1, 2, and 3, below, separate each of these sections according to the overarching "super element" category. Under each of these Headings, there is a comprehensive table that provides all proposed goals, policies, actions, and development standards for that section of the Plan. Therefore, because the table is comprehensive and is intended to show the progression of *all* policies as well as the suggested modifications, not all policies have a corresponding text change in the Suggested Modifications column. Policies that have Commission suggested modifications have been given an official Suggested Modification Number as indicated in the column denoted as MOD#.

V. SUGGESTED MODIFICATIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

1. Modifications No. 1-17 – Land Use Element

Proposed Policy #	Proposed Policy	Mod #	Suggested Modification
<i>Land Use - General</i>			
GOAL LUG-TC	Ensure That Residential And Agricultural Development Occurs In Balance With The Existing Natural Environment To Protect Natural Resources And Public Safety. Also,	1	Ensure That Residential And Agricultural Development Occurs In Balance With The Existing Natural Environment To Protect Natural Resources And Public Safety. Also,

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Proposed Policy #	Proposed Policy	Mod #	Suggested Modification
	Ensure That Commercial Areas Are Economically Viable And Are A Benefit To Both Travelers And The Local Community.		<p>Ensure That Commercial Areas Are Economically Viable And Are A Benefit To Both Travelers And The Local Community.</p> <p><u>Provide For New Development In A Manner That Avoids Degradation Of The Natural Environment And Other Coastal Resources, Considers The Social And Economic Needs Of The People Of The State, Including Visitor-Serving Commercial And Coastal Access/Recreational Uses, And Protects Public Safety.</u></p>
Policy LUG-TC-1	All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan.	2	<p>All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan.</p> <p><u>The policies and provisions of the certified Local Coastal Program, including the Coastal Land Use Plan and Coastal Zoning Ordinance shall continue to apply within the Toro Canyon Planning Area. Should any policy or provision of the Toro Canyon Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail. Where the policies or provisions of the certified Local Coastal Program, including the certified Toro Canyon Plan conflict with any other policy or provision of the County's Comprehensive Plan or other guiding standards, the Local Coastal Program shall prevail.</u></p> <p><u>Any future modification(s) to this Plan or the implementing actions, including any recommended modifications, studies, plans, programs, or other changes shall not be effective within the coastal zone until and unless it has been certified by the Coastal Commission as an amendment to the LCP.</u></p>
Policy LUG-TC-2	The Development Standards contained within this Plan shall be used to implement the policies of the Plan. Where appropriate, these standards shall be applied to projects under review, unless a standard is	3	<p>The Development Standards <u>and</u> Actions contained within this Plan shall be used to implement the policies of the Plan <u>and</u>. Where appropriate, these standards shall be applied to projects under review, unless a</p>

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	inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.		standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.
ADDED POLICY		4	<u>In addition to the requirements of LUP Policy 2-11, development shall be scaled to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of driveways; number and size of accessory structures; configuration and size of development envelopes; amount and location of grading; vegetation removal; and night lighting.</u>
ADDED POLICY		5	<u>Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.</u>
Policy LUG-TC-3	The Urban/Rural Boundary shall distinguish principally urban land uses from rural and/or agricultural land uses. This Boundary shall represent the maximum extent of the Toro Canyon urban area. This Boundary shall not be moved except as part of a County-initiated update of the Plan.	6	The Urban/Rural Boundary shall distinguish principally urban land uses from rural and/or agricultural land uses. This Boundary shall represent the maximum extent of the Toro Canyon urban area. This Boundary shall not be moved except as part of a County-initiated update of the Plan <u>and within the coastal zone, as certified by the Coastal Commission as an amendment to this Plan.</u>
Policy LUG-TC-4	Land Use and Zoning designations shall provide for reasonable use and development of property within given site constraints.	7	Land Use and Zoning designations shall provide for reasonable use and development of property within given site constraints.
Policy LUG-TC-5	The public shall be protected from noise that could jeopardize health and welfare.		*

* See LUP Modification 155

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DevStd LUG-TC-5.1	Construction activities within 1,600 feet of residential receptors shall be limited to the hours between 8:00 A.M. and 5:00 P.M., Monday through Friday. Construction equipment maintenance shall be limited to the same hours.		*
DevStd LUG-TC-5.2	Stationary construction equipment that could generate noise exceeding 65 dB(A) at project site boundaries shall be shielded to County P&D's satisfaction, and shall be located a minimum of two hundred (200) feet from sensitive receptors.		*
Policy LUG-TC-6	The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law.	8	The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law.
ADDED POLICY		9	<u>Existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below and in Policy BIO-TC-5 and DevStd BIO-TC-5.1 through 5.6 [cross reference to LUP Modification 91, 92- 97], additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.</u>
ADDED POLICY		10	<u>Conditional Certificates of Compliance, or Certificates of Compliance issued for</u>

* See LUP Modification 155

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			land divisions that occurred after the Coastal Act, shall require a coastal development permit appealable to the Coastal Commission.
<i>Land Use – Residential</i>			
GOAL LUR-TC	Balance Residential Development With Protection of Resources, Respect Constraints To Development and Concentrate Development In Areas With Adequate Public Facilities and Services.	11	Balance <u>Ensure that Residential Development is Consistent With Protection of Resources, and Preservation Of Agriculture, Respects Constraints To Development and Concentrates Development In Areas With Adequate Public Facilities and Services.</u>
Policy LUR-TC-1	The County shall encourage a diversity of housing types, while maintaining the predominantly large lot single family rural character of Toro Canyon.		
Action LUR-TC-1.1	The county shall consider the approval of Residential Second Units, which categorically are considered to be potentially affordable units, on appropriate sites in a manner consistent with applicable goals, policies, development standards, and ordinance provisions.	12	<i>Designate this as a DevStd rather than an Action.</i> The county shall consider the approval of Residential Second Units, which categorically are considered to be potentially affordable units, on shall be sited and designed appropriate sites in a manner consistent with applicable goals, policies, development standards, and ordinance provisions and the certified LCP.
Action LUR-TC-1.2	The County shall work with interested property owners to develop appropriate farm employee housing, which shall be sited and designed in a manner consistent with the goals, policies, and development standards of this Plan.	13	The County shall work with interested property owners to develop appropriate farm employee housing, which shall be sited and designed in a manner consistent with the goals, policies, and development standards of this Plan the certified LCP.
Action LUR-TC-1.3	At such time as the Housing Element may be amended to allow application of the Affordable Housing Overlay within Rural Neighborhood areas, the county shall consider applying this Overlay to part or all of the Via Real Company property between the Serena Park neighborhood and the Polo Club (APNs 005-270-17, -19, -29, -33, &- 34). Appropriate base and AHO densities shall be considered at such time.	14	At such time as the Housing Element may be amended to allow application of the Affordable Housing Overlay within Rural Neighborhood areas, the county shall consider applying this Overlay to part or all of the Via Real Company property between the Serena Park neighborhood and the Polo Club (APNs 005-270-17, -19, -29, -33, &- 34). Appropriate base and AHO densities shall be considered at such time. <u>Any future proposal to modify the areas within the Coastal Zone that this Overlay applies to shall not be effective until and unless it has been certified by the Coastal Commission as an</u>

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			<u>amendment to the LCP.</u>
Policy LUR-TC-2	Residential development, including but not limited to the size of structures and development envelopes, shall be scaled to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes.	15	<i>Delete. [Incorporated as a general land use policy as shown in suggested modification 4 above]</i>
Land Use – Commercial and Institutional Facilities			
GOAL C-TC	Maintain an Appropriate Commercial Balance in Toro Canyon, Consistent with the Primarily Rural and Semi-Rural Nature of the Area.		
Policy C-TC-1	The county shall encourage and support reasonable development and viability of existing commercial areas through infrastructure and design improvements.		
Action C-TC-1.1	County staff shall work with area residents and Santa Claus Lane property and business owners to discuss programs for additional parking, improved drainage and possible formation of a business improvement district to address landscaping, maintenance and other infrastructure needs.		
DevStd C-TC-1.2	Commercial development on Santa Claus Lane shall incorporate a sidewalk that is contiguous and visually compatible with sidewalks in front of neighboring businesses as well as other necessary street and drainage improvements in accordance with County Road Department standards and any approved Streetscape Plan for Santa Claus Lane.		
Policy C-TC-2	The style of new development within the C-1 zone district in Toro Canyon shall be "Western Seaside Vernacular Commercial." (See Toro Canyon Plan Zoning Overlay in the Art. II Coastal Zoning Ordinance.) The intent is to encourage architectural cohesion along the Lane, with new construction compatible with existing buildings in scale, massing and materials, while allowing for an updated look.		

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<i>Land Use – Agriculture and Rural Lands</i>			
GOAL LUA-TC	Protect And Support Agricultural Land Use And Encourage Appropriate Agricultural Expansion, While Maintaining A Balance With Protection Of Coastal And Natural Resources And Protection Of Public Health And Safety.	16	Protect And Support Agricultural Land Use And Encourage Appropriate Agricultural Expansion, While Maintaining A Balance With Protection Of Coastal And Natural Resources And Protection Of Public Health And Safety.
Policy LUA-TC-1	The County shall develop and promote programs to preserve agriculture in the Toro Canyon Plan Area.		
ADDED POLICY		17	<u>In areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.</u>
Policy LUA-TC-2	Land designated for agriculture within Toro Canyon shall be preserved and protected for agricultural use.		
DevStd LUA-TC- 2.1	Development of nonagricultural uses (other than residential uses and appropriately sited public trails) on land designated for agriculture, including land divisions and changes to a non-agricultural land use/zoning designation, shall only be permitted subject to all of the following findings: a. Continued or renewed agricultural use of the property is not feasible; b. Nonagricultural use shall be compatible with continued agricultural use on adjacent lands; c. Nonagricultural use shall preserve prime agricultural land or concentrate development contiguous with or in close proximity to existing developed areas able to accommodate the use, including adequate public services; d. Nonagricultural use shall not have a significant adverse impact on biological resources, visual resources and coastal resources (public access, recreation and coastal dependent uses); e. Land divisions outside the Urban Boundary shall be permitted only where 50 percent of the usable parcels in the urban area have been developed and the proposed parcels would be no smaller than the average size of the surrounding parcels. Land divisions proposed in the Coastal Zone		

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	shall be consistent with Coastal Plan Policy 8.4; f. For properties located in the Coastal Zone, the proposed nonagricultural use shall be consistent with Coastal Plan Policies 8.2 and/or 8.3.		
DevStd LUA-TC- 2.2	To the maximum extent feasible, hardscaped areas associated with agricultural and greenhouse development (i.e., parking lots, loading bays, interior walkways in greenhouses, and accessory building footprints) shall be minimized in order to preserve the maximum amount of prime agricultural soils. Minimizing the covering of soils shall be accomplished through efficient site and building design and the use of pervious surfaces wherever feasible.		
Policy LUA-TC-3	New development shall be compatible with adjacent agricultural lands.		
DevStd LUA-TC- 3.1	New non-agricultural development adjacent to agriculturally zoned property shall include appropriate buffers, such as trees, shrubs, walls, and fences, to protect adjacent agricultural operations from potential conflicts and claims of nuisance. The size and character of the buffers shall be determined through parcel-specific		

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	review on a case-by-case basis.		
DevStd LUA-TC- 3.2	Consistent with the County's adopted Right to Farm Ordinance, a Notice to Property Owner (NTPO) shall be recorded with the final tract and/or parcel map for properties within 1,000 feet of agriculturally zoned land. The NTPO shall inform the buyer that: <i>The adjacent property is zoned for agriculture and is located in an area that has been planned for agricultural uses, including permitted oil development, and that any inconvenience or discomfort from properly conducted agricultural operations, including permitted oil development, shall be allowed consistent with the intent of the Right to Farm Ordinance. For further information, contact Santa Barbara County Planning and Development.</i>		*

18. Modifications No. 18-67 – Public Facilities and Services

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<i>Fire Protection/Hazards</i>			
GOAL FIRE-TC	Maximize Effective and Appropriate Fire Prevention Measures in Order to Minimize Exposure of People and Property to Wildfire Hazards; Minimize Adverse Impacts of Fire Protection and Suppression Efforts.		
Policy FIRE-TC- 1	The County shall coordinate with the Carpinteria and Montecito Fire Protection Districts to maintain and improve fire prevention and protection service for the residents of the Toro Canyon Planning Area.	18	The County shall coordinate with the Carpinteria and Montecito Fire Protection Districts to maintain and improve fire prevention and protection service for the residents of the Toro Canyon Planning Area, <u>while minimizing impacts to resources.</u>
Action FIRE-TC- 1.1	The County shall coordinate with the Carpinteria Fire Protection District to ensure that fees for new development are adequate to cover the cost of required fire protection services.		

* See LUP Modification 155

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Proposed Policy #	Proposed Policy	Mod #	Suggested Modification
Policy FIRE-TC-2	Fire hazards in the Toro Canyon Planning Area shall be minimized in order to reduce the cost of/need for increased fire protection services while protecting the natural resources in undeveloped areas.	19	Fire hazards in the Toro Canyon Planning Area shall be minimized in order to reduce the cost of/need for increased fire protection services while protecting natural resources in undeveloped areas.
Action FIRE-TC-2.1	When the County updates the Comprehensive Plan Safety Element, the County, where applicable, shall update the policies and development standards in the Toro Canyon Plan Fire Protection/Hazards Section.		
DevStd FIRE-TC-2.2	Development shall be sited to minimize exposure to fire hazards and reduce the need for grading and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).	20	Development shall be sited to minimize exposure to fire hazards and reduce the need for grading, <u>fuel modification (including thinning of vegetation and limbing of trees)</u> , and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).
DevStd FIRE-TC-2.3	Applications for parcel and tract maps in high fire hazard areas shall include fuel management plans for review during the permit review process. Such plans shall be subject to final review and approval by Planning & Development and the applicable Fire District before recordation of the final map.		
DevStd FIRE-TC-2.4	Two routes of ingress and egress shall be required for discretionary permits for subdivisions involving five or more lots to provide emergency access unless the applicable fire district waives/modifies the requirement and documents finding(s) for the waiver/modification with the County. For discretionary permits for subdivisions involving fewer than five lots, the permit application shall identify a secondary ingress and egress route for review by appropriate P&D decision maker. This secondary route may be a consideration in the siting and design of the new development.		

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DevStd FIRE-TC- 2.5	All private roads and driveways serving development, including but not limited to subdivision or additional residential units on one lot, shall be constructed to the minimum roadway width requirement of the CSFPD or MFPD unless the applicable fire district waives/modifies the requirement and documents finding(s) for the waiver/modification with the County.		
DevStd FIRE-TC- 2.6	Development requiring fire hydrants in the Plan area shall maintain the required residual water pressure and hydrant spacing standards of the CSFPD or MFPD unless the applicable fire district waives/modifies the requirement and documents finding(s) for the waiver/modification with the County.		
DevStd FIRE-TC- 2.7	Development within or adjacent to high fire hazard areas shall include the use of fire prevention measures such as fire retardant roof materials, sprinklers, and water storage consistent with county and state regulations for fire resistant construction, and the respective fire district standards of the CSFPD and MFPD.		
Action FIRE-TC- 2.8	P&D shall encourage and work with the CSFPD, MFPD and the residents in the Planning Area to prepare a Toro Canyon Fire Protection Plan. Other affected departments and agencies, such as the County Public Works and Fire Department, the U.S. Forest Service, and the Fire Safe Council, a south coast multi-agency/community organization, should also be encouraged to participate. A component of the plan shall include a fire education program for the residents. The education program shall address roadside fuel management, including mowing of annual grasses within public road rights-of-way and selective pruning of trees and brush near such roads. The Plan shall maintain the aesthetic character of the area, while increasing roadway width and visibility, and controlling the "bottom rung of the fuel ladder."		
Action FIRE-TC- 2.9	P&D, in cooperation with Public Works and the CSFPD shall prepare a fee schedule for the Toro Canyon Fire Protection Plan. The fees assessed from		

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	new development on affected parcels shall help to fund implementation of this Toro Canyon Fire Protection Plan.		
Policy FIRE-TC-3	Fuel breaks in Toro Canyon shall be sited and designed to be effective means of reducing wildland fire hazards and protecting life and property, while also minimizing disruption of biological resources and aesthetic impacts to the maximum extent feasible.		
DevStd FIRE-TC-3.1	Fuel breaks shall incorporate perimeter roads and yards to the greatest extent feasible. Development envelopes containing new structures and the area of site disturbance shall be sited to reduce the need for fuel breaks (see Fuel Management Guidelines in Appendix D).		
DevStd FIRE-TC-3.2	Fuel breaks shall not result in the removal of protected healthy oaks, to the maximum extent feasible. Within fuel breaks, treatment of oak trees shall be limited to limbing the branches up to a height of eight (8) feet, removing dead materials, and mowing the understory. Along access roads and driveways, limbing of branches shall be subject to the vertical clearance requirements of the CSFPD and MFPD. Where protected oaks have multiple trunks, all trunks shall be preserved.	21	Fuel breaks modification of vegetation shall not result in the removal of protected healthy oaks, to the maximum extent feasible . Within fuel breaks, treatment of oak trees shall be limited to limbing the branches up to a height of eight (8) feet, removing dead materials, and mowing the understory. Along access roads and driveways, limbing of branches shall be subject to the vertical clearance requirements of the CSFPD and MFPD. Where protected oaks have multiple trunks, all trunks shall be preserved.
DevStd FIRE-TC-3.3	Fuel management within <i>Inland</i> Environmentally Sensitive Habitat (ESH) and the ESH buffer areas shall be subject to Biological Resources DevStd BIOTC-7.6.		
DevStd FIRE -TC-3.4	Fuel management within <i>Coastal</i> Environmentally Sensitive Habitat (ESH) and the ESH buffer areas shall be subject to Biological Resources DevStds BIO-TC-4.2 and BIO-TC-4.3.		
Parks, Recreation, and Trails			
GOAL PRT-TC	Public Recreational Opportunities For Residents And Visitors, Including Improved Beach Access, Expanded Trail Network And Parks.		
Policy PRT-TC-1	The County shall strive to provide new park facilities, increased beach access and new trails.		

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Action PRT-TC-1.1	The County shall conduct a fee study, to be completed by 6/30/2003, to determine if current fees are adequate to provide and maintain parks and other public recreational facilities.		
Action PRT-TC-1.2	The County shall pursue siting a neighborhood park within the central area of residential development near Toro Canyon Road and Highway 101.		
Action PRT-TC-1.4 [Revised Location]	Public access to the beach from Santa Claus Lane shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; clarifying the status of lateral beach access rights and securing any easements that may be necessary and appropriate; developing one or more parking areas (also see Action CIRC-TC-4.3); constructing appropriate safety features; and installing any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date.	22	<u>The County shall pursue public access to the beach from Santa Claus Lane. Public beach access shall be formalized as soon as feasible by: determination of prescriptive rights, by securing and opening a vertical accessway between Santa Claus Lane and the beach; by clarifying the status of lateral beach access rights, or by securing any easements that may be necessary and appropriate; In addition, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, developing one or more parking areas (also see Action CIRC-TC-4.3); constructing appropriate safety features; and installing appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 28].</u> any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Where there are any conflicts among the policies of this Plan or the certified LCP, public access policies shall take priority over other general development standards as described in LUG-TC- [cross reference to suggested modification 5]. Access for jet ski and other motorized recreational activity shall be prohibited from any

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			<p>coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date.</p>
ADDED POLICY		23	<p><u>Public accessways and trails to the shoreline shall be a permitted use in all land use and zoning designations within the Toro Canyon Plan. Where there is an existing, but unaccepted and/or unopened public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities e.g. parking, necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use.</u></p>
ADDED POLICY		24	<p><u>For all offers to dedicate an easement that are required as a condition of Coastal Development Permit approved by the County, the County has the authority to approve a private association that seeks to accept the offer. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The County shall approve any private association acceptable to the County that submits a management plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate the easement.</u></p>
ADDED POLICY		25	<p><u>Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway shall be opened within 5</u></p>

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			<p><u>years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association acceptable to the County expressly requests ownership of the easement in order to open it to the public, the easement holder shall transfer the easement to that entity. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association acceptable to the County that requests such transfer, if the easement holder has not opened the accessway to the public within 5 years of accepting the offer.</u></p>
<p>Action PRT-TC- 1.3</p>	<p>The County shall pursue, to the extent feasible, developing a public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. The County shall include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and other appropriate features for the beach access. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.</p>	<p>26</p>	<p><u>Consistent with LUP Policy 7-8, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. The County shall pursue, to the extent feasible, developing public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. The County shall include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and other appropriate features for the beach access. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The siting of the beach access shall minimize removal of native trees and eucalyptus</u></p>

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			trees that are part of a monarch butterfly aggregation site.
Action PRT-TC-1.4	Public access to the beach from Santa Claus Lane shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; clarifying the status of lateral beach access rights and securing any easements that may be necessary and appropriate; developing one or more parking areas (also see Action CIRC-TC-4.3); constructing appropriate safety features; and installing any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date.	27	<i>Move location and modify as shown in suggested modification 22 above.</i>
ADDED POLICY		28	<u>Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be</u>

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			<u>required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.</u>
ADDED POLICY		29	<u>Permits for new development shall include conditions that incorporate measures that provide or protect access where there is substantial evidence that prescriptive rights exist.</u>
ADDED POLICY		30	<u>Public accessways and trails shall be located outside of ESH and ESH buffers where feasible and shall be sited and designed to minimize impacts to environmentally sensitive habitat to the maximum extent feasible. Trails shall be sited outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Where seasonal closures occur, alternative trail segments shall be provided where feasible.</u>
Action PRT-TC-1.5	The County should investigate all obstructions to dedicated public trails and property and take appropriate action to remove any such obstructions.		
DevStd PPT-TC-1.6	Consistent with the Agricultural Element, all opportunities for public trails within the general corridors identified on the Parks, Recreation and Trails (PRT) map shall be protected, preserved and provided for during review and upon approval of development and/or permits requiring discretionary approval. County Public Works shall consult with the County Park Department prior to issuing any encroachment permits for on-road development such as driveways along road shoulders with current or proposed trails.	31	<u>Consistent with the Agricultural Element, all opportunities for public trails within the general corridors identified on the Parks, Recreation and Trails (PRT) map shall be protected, preserved and provided for during review and upon approval of development and/or permits requiring discretionary approval. County Public Works shall consult with the County Park Department prior to issuing any encroachment permits for on-road development such as driveways along road shoulders with current or proposed trails. Encroachment permits shall not be issued if the trail corridor would no longer be feasible, and a feasible alternative route has not been identified.</u>

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Action PRT-TC-1.7	The County shall actively pursue acquisition of interconnecting useable public trails within designated trail corridors through negotiation with property owners for purchase, through exchange for surplus County property as available, or through acceptance of gifts and other voluntary dedications of easements.		
Action PRT-TC-1.8	If either of the proposed alternative connections to the Romero Trail from Toro Canyon Road (2 or 2a on Figure 10) and/or the proposed connection between Toro Canyon Park and Toro Canyon Road (6a on Figure 10) are constructed, the County should consider the feasibility of siting low-intensity roadside parking on the western portion of parcel 155-020-004 (Figure 10). Also, appropriate "no parking" signs shall be located along Toro Canyon Road consistent with applicable County Road Division standards, and motor vehicle barriers shall be installed at trailheads per County Park Department standards. The staging area would feature a minimal amount of grading and clearing so as not to disturb existing trees.		
Action PRT-TC-1.9	Trailhead parking shall be sited and designed to minimize disruption to existing neighborhoods.		
Action PRT-TC-1.10	The County shall support the efforts of volunteer trail organizations and encourage their efforts to clear trails. County support may include, but not be limited to: coordinating volunteer efforts, designating a liaison between volunteer groups and the County Park Department, providing information on grant opportunities, and facilitating communication between trail organizations.		
Policy PRT-TC-2	The County shall ensure that trails provide users with a recreational experience appropriate to the quiet, rural nature of the area.		
DevStd PRT-TC-2.1	Development adjacent to trail easements shall include setbacks and, where appropriate, landscaping to minimize conflicts between use of private property and public trail use. For off-road trails outside of Urban and Rural Neighborhood	32	Development adjacent to trail easements shall include setbacks and, where appropriate, landscaping to minimize conflicts between use of private property and public trail use. For off-road trails outside of Urban and

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	areas, new structures shall be sited at least 50 feet from the edge of trail easements unless this would preclude reasonable use of property.		Rural Neighborhood areas, new structures shall be sited at least 50 feet from the edge of trail easements, <u>except where no other feasible site exists for a principal permitted use.</u> unless this would preclude reasonable use of property.
DevStd PRT-TC- 2.2	On-road trail development design shall maximize road shoulder width to separate trail users from vehicular traffic.		
Action PRT-TC- 2.3	The County should explore the feasibility of routing trail 2 from Toro Canyon Road to connect with the Romero Trail south of the Edison Catway (see trail route 2a on Figure 10). Property owners, the Park Department and Planning & Development should work together to determine trail siting feasibility.		
<i>Circulation</i>			
GOAL CIRC-TC- 1	Provide An Efficient And Safe Circulation System To Accommodate Existing Development And Future Growth In Toro Canyon.		
Policy CIRC-TC- 1	The County shall allow reasonable development of parcels within Toro Canyon while maintaining safe roadways and intersections that operate at acceptable levels of service.		
Action CIRC-TC- 1.1	When the County adopts a Transportation Improvement Plan (TIP) for the Montecito-Summerland-Carpinteria area, it shall include the Toro Canyon Plan area. The TIP shall address any necessary long-term improvements to roadways and alternative transportation facilities, including any appropriate traffic calming measures, designed to maintain public safety and acceptable levels of service on roadways and intersections within the Toro Canyon Plan area. The TIP shall be an integrated plan for capital improvements of roads and intersections as well as alternative transportation facilities. The TIP shall contain a list of transportation projects to be undertaken and include projected costs for each funded and unfunded improvement. The County shall also revise the Transportation Impact Fee based upon the projected cost of transportation system improvements		

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	identified in the TIP.		
Action CIRC-TC-1.2	The TIP shall be updated as necessary by the Public Works Department, in consultation with P&D, and presented to the Board of Supervisors for review. At such time, the Transportation Impact Fee shall be re-evaluated and modified as necessary to account for changes to the TIP.		
Action CIRC-TC-1.3	The County Public Works Department shall submit current traffic count and intersection level of service data to the Planning Commission and Board of Supervisors with each TIP update.		
Action CIRC-TC-1.4	The TIP shall include a comprehensive neighborhood traffic management program to address problems related to increased vehicular traffic and/or vehicular speeds in residential areas. Identified improvements shall be funded through collection of traffic mitigation fees and/or grants, and implemented through the TIP. (Also see Action PS-TC-2.1.)		
DevStd CIRC-TC-1.5	The County shall balance the need for new road improvements with protection of the area's semi-rural character. All development shall be designed to respect the area's environment and minimize disruption of the semi-rural character.		
DevStd CIRC-TC-1.6	In order to minimize vehicle trips to improve both transportation system efficiency and quality of life, transit, pedestrian, and bicycle access to commercial, recreational, and educational facilities shall be encouraged.	33	<i>Designate as Policy rather than DevStd</i>
ADDED DevStd		34	<u>Improvements along Route 192/ Foothill Road should be developed in a manner consistent with bicycle and pedestrian safety, and should be designed for improved bicycle access.</u>
ADDED DevStd		35	<u>The County should consider requiring setbacks from Route 192/ Foothill Road for future bicycle and pedestrian access lanes during review of applications for new development.</u>
Policy CIRC-TC-2	The County shall maintain a minimum Level of Service (LOS) B or better on classified roadways and intersections within Toro Canyon.		

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Action CIRC-TC-2.1	Through the TIP or other means, the Public Works Department shall regularly monitor the operating conditions of designated roadways and intersections in Toro Canyon. If traffic on any roadway or intersection is found to exceed the acceptable capacity level defined by this Plan, the County should re-evaluate and, if necessary, amend the Plan in order to reestablish the balance between allowable land uses and acceptable roadway and intersection operation. This re-evaluation should include, but not be limited to: • Redesignating roadways and/or intersections to a different classification; • Reconsidering land uses to alter traffic generation rates and circulation patterns; and • Changes to the TIP, including re-evaluation of alternative modes of transportation.		
Action CIRC-TC-2.2	Through the TIP or other means, the County Public Works Department and Planning and Development shall work with Caltrans to investigate the source of elevated collision rates experienced at Route 192/Cravens Lane and to implement appropriate corrective action, if necessary. The design and scale of intersection improvements shall be consistent with the rural character of the area to the greatest extent feasible.		
Policy CIRC-TC-3	A determination of project consistency with the standards and policies of the Toro Canyon Plan Circulation Section shall constitute a determination of consistency with Coastal Land Use Plan Policy 2-6 and the Land Use Element's Land Use Development Policy 4 with regard to roadway and intersection capacity.		
Policy CIRC-TC-4	The County shall encourage development of all feasible forms of alternative transportation in the Toro Canyon area.		
Action CIRC-TC-4.1	The County shall work with the MTD and the City of Carpinteria to improve transit services.		
DevStd CIRC-TC-4.2	Development shall be evaluated, pursuant to applicable MTD standards, for possible need to contribute to new and/or upgraded public transit facilities that would benefit the development and		

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	its neighborhood.		
Action CIRC-TC-4.3	The County shall coordinate with Caltrans to incorporate appropriate park-and-ride facilities (including bike lockers, transit stops and benches) near planned freeway interchange improvement projects.		
Policy CIRC-TC-5	The County shall encourage Caltrans to accommodate planned bicycle facilities in the design and construction of new highway overpasses and/or work on existing overpasses.		
GOAL CIRC-TC-2	Achieve Land Use Patterns And Densities That Reflect The Desire Of The Community To Prevent Further Degradation Of Roadways And Intersections For The Benefits Of Safety, Aesthetics And Community Character.		
Policy CIRC-TC-6	Traffic signals are not considered compatible with the semi-rural character of Toro Canyon, and should only be considered when no other form of intersection improvement is feasible, or when warranted to protect public safety. Signals shall not be installed until community workshops have been held so that community concerns can be discussed and addressed to the maximum extent feasible.		
Policy CIRC-TC-7	To ensure that mature landscaping does not compromise public safety, landscaping proposed in connection with development shall be consistent with applicable county or Caltrans sight distance standards.		
Policy CIRC-TC-8	Encroachment permits for structures, fences, walls, landscaping, and other such objects may be issued where the placement of such objects would neither compromise public safety nor conflict with applicable county or Caltrans sight distance standards.		
Policy CIRC-TC-9	The county shall investigate and support appropriate traffic calming measures and shall work with Caltrans in this regard as may be appropriate.		
Action CIRC-TC-9.1	Through the TIP or other means, the county shall consider implementing appropriate traffic calming measures on		

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	lower Toro Canyon Road, when consistent with the county's adopted Neighborhood Traffic Management Policy (as it may be amended from time to time).		
Action CIRC-TC-9.2	The county shall work with Caltrans to investigate possible ways to calm traffic and minimize vehicle movement conflicts on Santa Claus Lane. This investigation shall include the possible relocation of the southbound Hwy. 101 on-ramp to a more northwesterly location, in order to avoid commercial parking areas and the access for the Sand Point Road and Casa Blanca residential developments.		
<i>Public Services: Resource Recovery, Police Protection, and Schools</i>			
Policy PS-TC-1	Resource conservation and recovery shall be implemented to reduce solid waste generation and to divert the waste stream from area landfills to the maximum extent feasible.		*
Action PS-TC-1.1	The County shall work with the local waste hauler to continue with education programs which provide information on conservation, recycling and composting techniques, and the awards campaign that recognizes significant local waste reduction achievements.		*
Action PS-TC-1.2	The County shall encourage developers to use recycled building materials such as composites, metals, and plastics to the greatest extent feasible, through programs such as the Innovative Building Review Program.		**
DevStd PS-TC-1.3	Recycling bins shall be provided by the applicant or contractor at all construction sites. All recyclable materials currently being accepted at the County Transfer Station, landfill, or recycling centers shall be collected for recycling at construction sites. Adequate and accessible enclosures and/or areas shall be provided for the storage of recyclable materials in appropriate containers.		*
Policy PS-TC-2	The County shall strive to ensure adequate traffic law enforcement within Toro Canyon.		*

* See LUP Modification 155

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Action PS-TC-2.1	The County Public Works Department and Sheriff's Department shall work with the California Highway Patrol to address speeding concerns on problem streets, and to encourage the reporting of non-injury accidents so that a better record of traffic hazards may be compiled for improving traffic safety and law enforcement. (Also see Action CIRC-TC-1.4.)		*
Policy PS-TC-3	The County shall work with the Carpinteria Unified School District to ensure that public education needs are met.		*
Action PS-TC-3.1	Upon the request of the School District, the County shall consider participation in a joint task force comprised of representatives of the County and District for the purpose of identifying suitable future school sites within the District.		*
<i>Wastewater, Water, and Water Quality</i>			
Text Heading		36	Replace all headings of "Wastewater and Water" with "Wastewater, Water, and Water Quality"
GOAL WW-TC	Protect Quality Of Surface, Ground, And Ocean Waters From Degradation; Maintain Adequate, Safe Water Supplies; And Protect Groundwater Basins From Prolonged Overdraft. Provide Adequate Wastewater Treatment And Disposal Throughout The Planning Area.		
Policy WW-TC-1	Development and infrastructure shall achieve a high level of wastewater treatment, in order to best serve the public health and welfare.		
DevStd WW-TC-1.1	Septic system installations shall only occur on parcels that are free of site characteristics listed under "VIII.D.3.i. Individual, Alternative and Community Systems Prohibitions" in the <i>Water Quality Control Plan for Central Coast Basin, Region 3</i> by the Regional Water Quality Control Board. Adherence to this standard and any other more restrictive applicable standards or zoning regulations as well as the County Wastewater Ordinance shall constitute a finding of consistency with Land Use		

* See LUP Modification 155

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Proposed Policy #	Proposed Policy	Mod #	Suggested Modification
	Development Policy 4 and Coastal Plan Policy 2-6 with regard to wastewater service.		
DevStd WW-TC- 1.2	To the maximum extent feasible, development shall be sited and designed to avoid the use of wastewater system features (e.g. lift stations and grinder pumps) that require more maintenance than gravity fed laterals or septic systems and whose failure could result in the contamination of surface or groundwater or potential health hazards. Gravity flow of wastewater to septic tank and disposal fields must be available when new lots to be served by septic systems are created. Unless it would preclude reasonable use of property, private operation and maintenance of lift stations and grinder pumps is prohibited.	37	To the maximum extent feasible, development shall be sited and designed to avoid the use of wastewater system features (e.g. lift stations and grinder pumps) that require more maintenance than gravity fed laterals or septic systems and whose failure could result in the contamination of surface or groundwater or potential health hazards. Gravity flow of wastewater to septic tank and disposal fields must be available when new lots to be served by septic systems are created. Unless it would preclude reasonable use of property, private operation and maintenance of lift stations and grinder pumps is prohibited.
DevStd WW-TC- 1.3	For development proposing public sewer service, prior to approving land use clearance and/or recording final maps, adequate wastewater treatment and disposal capacity (based on County and RWQCB accepted figures) shall be demonstrated for the Carpinteria Sanitary District or Montecito Sanitary District, as appropriate, to serve the specific project along with other approved development.		
Action WW-TC- 1.4	The County shall work with the Montecito Sanitary District and Local Agency Formation Commission to extend sewer lines to serve residents on the east side of Ladera Lane, west of Toro Creek, within the Urban Boundary.		
Action WW-TC- 1.5	The County shall work with the Carpinteria Sanitary District and Local Agency Formation Commission to extend sewer lines within designated Rural Neighborhoods (RNs) when consistent with Coastal Plan Land Use Policy 2-10.		
Policy WW-TC-2	Pollution of surface, ground and ocean waters shall be avoided. Where avoidance is not feasible, pollution shall be minimized.	38	Pollution of surface, ground and ocean waters shall be avoided. Where avoidance is not feasible, pollution shall be minimized.
ADDED Policy		39	<u>Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the</u>

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Proposed Policy #	Proposed Policy	Mod #	Suggested Modification
			<u>ocean.</u>
ADDED DevStd		40	<u>On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients, pathogens and other pollutants to groundwater and/or surface water.</u>
DevStd WW-TC- 2.1	To reduce the possibility of prolonged effluent daylighting, two disposal fields shall be built to serve each septic system as required by EHS so that when one field begins to fail, the other field can immediately be put into use. An additional third expansion area shall be set aside where no development can occur, except for driveways on constrained sites as provided below in Development Standard WW-TC-2.3.1. In the expansion area, a disposal field should be constructed when any other disposal field is in a state of failure.		
DevStd WW-TC- 2.2	For remodels of plumbed structures where the existing septic system must be enlarged or where septic system repairs are required due to failure, in addition to the enlargement and/or repair of the existing septic system, an additional disposal field shall be installed to the maximum extent feasible.		
DevStd WW-TC- 2.3	Where feasible, measures to decrease the amount of nitrates filtering through soil to groundwater shall be required, including: 1. Shallow-rooted non-invasive plants (maximum root depth of four feet) shall be planted above all leach fields to encourage evapotranspiration of effluent and uptake of nitrates. Impervious surfaces, such as paved driveways, shall not be constructed above leach fields. If site constraints require a driveway to be located above a leach field in order to ensure reasonable use of property, turf block or other suitable pervious surface shall be used. 2. Advanced treatment for the removal of nitrates shall be required on septic systems utilizing drywells as the disposal field. Existing septic systems that utilize drywells that have failed, or that need to be modified or certified, must also install advanced treatment.	41	Where feasible, measures to decrease the amount of nitrates filtering through soil to groundwater shall be required, including: 1. Shallow-rooted non-invasive plants (maximum root depth of four feet) shall be planted above all leach fields to encourage evapotranspiration of effluent and uptake of nitrates. Impervious surfaces, such as paved driveways, shall not be constructed above leach fields. If site constraints require a driveway to be located above a leach field in order to ensure reasonable use of property , turf block or other suitable pervious surface shall be used. 2. Advanced treatment for the removal of nitrates shall be required on septic systems utilizing drywells as the disposal field. Existing septic systems that utilize drywells that have failed, or that need to be modified or certified, must also install advanced

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			treatment.
DevStd WW-TC- 2.4	Discretionary development to house or manage animals must have a waste management program prepared according to Environmental Health Services' Guidelines for Management of Animal Wastes and approved by the Environmental Health Services Division.	42	<i>[Moved location, as shown below.]</i>
DevStd WW-TC- 2.5	Septic systems and other potential sources of water pollution shall be a minimum of 100 feet from the geologic top of slope of tributary or creek banks (reference point as defined by Planning and Development and Environmental Health Services). Modifications to existing sources of potential water pollution shall meet this buffer to the maximum extent feasible.		
Action WW-TC- 2.6	The County should mail the Environmental Health Services brochure "Your Septic System: A Reference Guide for Homeowners" to all Toro Canyon properties with septic systems.		
ADDED DevStd		43	<u>Beachfront development that includes new OSTS(s) or expansion of existing OSTS(s) shall provide secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.</u>
DevStd WW-TC- 2.7	Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property.	44	Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property.
ADDED POLICY		45	<u>Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.</u>
DevStd WW-TC- 2.4 [Revised Location]	Discretionary development to house or manage animals must have a waste management program prepared according to Environmental Health Services' Guidelines for Management of		

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Location]	Animal Wastes and approved by the Environmental Health Services Division.		
ADDED POLICY		46	<u>Development shall incorporate pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters, and that minimize the generation of polluted runoff, including stormwater and dry weather runoff, and the impacts of polluted runoff on coastal resources.</u>
ADDED POLICY		47	<u>Special attention shall be devoted to protecting pristine waters from impairment and rehabilitating impaired waters.</u>
ADDED DevStd		48	<u>All development that is determined to have a potentially significant water quality impact, according to County standards, shall require the preparation and implementation of a Storm Water Quality Management Plan to reduce the impact to the maximum extent feasible.</u>
DevStd WW-TC-2.9	Development shall incorporate best management practices (BMPs) to reduce pollutants in storm water runoff. The BMPs can include, but are not limited to dry wells for roof drainage or other roof downspout infiltration systems, modular paving, unit pavers on sand or other porous pavement for driveways, patios or parking areas, multiple-purpose detention systems, cisterns, structural devices (e.g., grease, silt, sediment, and trash traps), sand filters, or vegetated treatment systems (e.g. bioswales/filters).		
ADDED DevStd		49	<u>BMPs shall be incorporated into the project design in the following progression:</u> <u>* Site Design BMPs</u> <u>* Source Control BMPs</u> <u>* Treatment Control BMPs</u> <u>Site design and source control BMPs shall be included in all developments. Structural treatment control BMPs shall be required for all residential development 1 acre or greater in disturbance and all commercial, industrial, and transportation/vehicle development 0.5 acres or greater in disturbance. In addition, when the combination of site design and source</u>

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			<u>control BMPs are not sufficient to protect water quality as required by the Toro Canyon Plan, LCP or Coastal Act. structural treatment BMPs shall be implemented along with site design and source control measures.</u>
ADDED DevStd		50	<u>When structural treatment control BMPs are required, these BMPs (or suites of BMPs) shall be installed to accommodate, at a minimum, rainfall events up to 1.2 inches in volume, or 0.3 inches per hour.</u>
ADDED DevStd		51	<u>Structural BMPs shall be inspected, cleaned, and repaired as necessary to ensure proper functioning for the life of the development. Permits for development shall be conditioned to require ongoing application and maintenance as is necessary for effective operation of all BMPs (including site design, source control, and treatment control).</u>
ADDED POLICY		52	<u>Development shall preserve or, where feasible, restore natural hydrologic conditions.</u>
ADDED POLICY		53	<u>Development shall incorporate site drainage and landscape designs that minimize increases in peak runoff by promoting infiltration, filtration, and attenuation over landscaped areas or through permeable surfaces, where feasible. Where possible, include infiltration BMPs (e.g., permeable pavements, dry wells, etc.) and apply techniques consistently over drainage areas</u>
ADDED POLICY		54	<u>Where infiltration of runoff would exacerbate geologic hazards, include equivalent BMPs that do not require infiltration.</u>
DevStd WW-TC-2.8	Development shall be designed to reduce runoff from the site by minimizing impervious surfaces, using pervious or porous surfaces, and minimizing contiguous impervious areas.	55	<i>Designate as a Policy rather than DevStd</i>
ADDED POLICY		56	<u>Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize</u>

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			<p><u>existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems should be restored, where feasible.</u></p>
ADDED POLICY		57	<p><u>Development shall be sited on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources by providing for the following:</u></p> <ul style="list-style-type: none"> * <u>Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss;</u> * <u>Analyzing the natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development;</u> * <u>Preserving and protecting riparian corridors, wetlands, and buffer zones;</u> * <u>Minimizing disturbance of natural areas, including vegetation, significant trees, native vegetation, and root structures;</u> * <u>Ensuring adequate setbacks from creeks, wetlands, and other environmentally sensitive habitat areas.</u>
ADDED POLICY		58	<p><u>Parking lots and vehicle traffic areas shall incorporate BMPs designed to prevent or minimize runoff of oils and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants to receiving waters.</u></p>
ADDED POLICY		59	<p><u>Commercial development shall incorporate BMPs designed to prevent or minimize the runoff of pollutants from structures, landscaping, parking areas, loading and unloading dock areas, repair and maintenance bays, and vehicle/equipment wash areas.</u></p>
ADDED POLICY		60	<p><u>Restaurants shall incorporate BMPs designed to prevent or minimize the runoff of oil and grease, solvents, phosphates, suspended solids, and other pollutants to the storm drain</u></p>

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			<u>system from areas including equipment/accessory wash areas and trash storage areas.</u>
ADDED POLICY		61	<u>Gasoline stations, car washes and automotive repair facilities shall incorporate BMPs designed to prevent or minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline, and other pollutants to the stormwater system from areas including fueling areas, repair and maintenance bays, vehicle/equipment wash areas, and loading/unloading dock areas.</u>
ADDED POLICY		62	<u>Development on steep slopes or slopes with erosive soils shall be required to implement structural BMPs to prevent or minimize erosion.</u>
ADDED POLICY		63	<u>Beachfront, waterfront, and coastfront development shall incorporate BMPs designed to prevent or minimize polluted runoff to the beach and coastal waters.</u>
ADDED POLICY		64	<u>Development shall minimize to the maximum extent feasible erosion, sedimentation, and the introduction of pollutants from construction-related activities.</u>
ADDED POLICY		65	<u>Measures shall be taken during construction to limit land disturbance activities such as clearing and grading, limit cut-and-fill to reduce erosion and sediment loss, and avoid steep slopes, unstable areas, and erosive soils. Construction shall minimize disturbance of natural vegetation, including significant trees, native vegetation, root structures, and other physical or biological features important for preventing erosion or sedimentation.</u>
ADDED DevStd		66	<u>All development that requires a grading permit shall require the preparation and implementation of an Erosion and Sediment Control Plan to reduce the construction-related impacts on water quality to the maximum extent feasible.</u>
DevStd WW-TC-2.10	Construction Best Management Practices shall be included on drainage plans and/or erosion control plans and implemented to prevent contamination of		

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	runoff from construction sites. These practices shall include, but are not limited to, appropriate storage areas for pesticides and chemicals, use of washout areas to prevent drainage of wash water to storm drains or surface waters, erosion and sediment control measures, and storage and maintenance of equipment away from storm drains and water courses.		
Policy WW-TC-3	Development in Toro Canyon shall incorporate appropriate water efficient design, technology and landscaping.		
ADDED DevStd		67	<u>The use of efficient irrigation practices and native or drought tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation shall be required for all developments.</u>
Action WW-TC-3.1	The County Water Agency shall work with the MWD and the CVWD to promote educational programs that encourage efficient water use.		
DevStd WW-TC-3.2	In cases where landscape plans are required for development, they shall include appropriate water-conserving features such as those listed in the Water Resources section of the County's <i>Standard Conditions of Approval and Standard Mitigation Measures</i> .		

68. Modifications No. 68-151 – Resources and Constraints

Proposed Policy #	Proposed Policy	Mod #	Suggested Modification
<i>Biological Resources</i>			
GOAL BIO-TC	Recognize That The Biological Resources Of The Toro Canyon Plan area Are An Important Regional Asset Meriting Protection And Enhancement.		
Policy BIO-TC-1	Environmentally Sensitive Habitat (ESH) areas shall be protected and, where appropriate, enhanced.	68	<i>[Move location and modify as shown in suggested 71 below.]</i>
Action BIO-TC-1.1	The following biological resources and habitats, as identified and generally described by the Plan (see <i>Description of Natural Habitats</i> section beginning on page 103), shall be presumed to be "environmentally sensitive," provided	69	<i>Designate as a Policy rather than Action.</i> <i>The following biological resources and habitats, as identified and generally described by the Plan (see <i>Description of Natural Habitats</i> section beginning</i>

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	<p>that the biological resource(s) or habitat(s) actually present on a project site meet the Coastal Act's definition of "environmentally sensitive habitat" (PRC §30107.5) within the Coastal Zone, or satisfy one or more of the criteria listed in Action BIO-TC-7.1 for inland areas. These resources and habitats shall be identified on the Toro Canyon Plan ESH Map to the extent that their general or specific locations are known, and resources and habitats that qualify as being "environmentally sensitive" shall be protected and preserved on development project sites through the Local Coastal Program's existing Environmentally Sensitive Habitat (ESH) Overlay within the Coastal Zone or through the new Environmentally Sensitive Habitat Area-Toro Canyon (ESH-TCP) Overlay for inland areas:</p> <ul style="list-style-type: none"> • Southern Coast Live Oak Riparian forest corridors; • Streams and creeks; • Wetlands; • Rocky intertidal (coastal zone only); • Coastal Sage Scrub; • Sensitive native flora; • Coast Live Oak forests; • Scrub oak chaparral; • Native grassland; • Critical wildlife habitat/corridors; and • Monarch butterfly habitat. <p>The scale of the overlay maps precludes complete accuracy in the mapping of habitat areas. In some cases, the precise location of habitat areas is not known and is therefore not mapped. In addition, the migration of species or discovery of new habitats may result in the designation of new areas. In order to address these issues, the County shall periodically update the boundaries of the designations in order to incorporate new data through the County rezone process.</p>		<p>on page 103), shall be presumed to be "environmentally sensitive," provided that the biological resource(s) or habitat(s) actually present on a project site meet the Coastal Act's definition of "environmentally sensitive habitat" (PRC §30107.5) within the Coastal Zone, or satisfy one or more of the criteria listed in Action BIO-TC-7.1 for inland areas. These resources and habitats shall be identified on the Toro Canyon Plan ESH Map to the extent that their general or specific locations are known, and resources and habitats that qualify as being "environmentally sensitive" shall be protected and preserved on development project sites through the Local Coastal Program's existing Environmentally Sensitive Habitat (ESH) Overlay within the Coastal Zone, or through the new Environmentally Sensitive Habitat Area-Toro Canyon (ESH-TCP) Overlay for inland areas:</p> <ul style="list-style-type: none"> • Southern Coast Live Oak Riparian forest corridors; • Streams and creeks; • Wetlands; • Rocky intertidal (coastal zone only); • Coastal Sage Scrub; • Sensitive native flora; • Coast Live Oak forests; • Scrub oak chaparral; • Native grassland; • Critical wildlife habitat/corridors; and • Monarch butterfly habitat. <p>The scale of the overlay maps precludes complete accuracy in the mapping of habitat areas. In some cases, the precise location of habitat areas is not known and is therefore not mapped. In addition, the migration of species or discovery of new habitats may result in the designation of new areas. In order to address these issues, the County shall periodically update the boundaries of the designations in order to incorporate new data through the County rezone process.</p>

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			<p><u>Additionally, those areas not mapped as ESH, but found to be ESH during the application review process, shall be afforded all the protection provided for ESH in the applicable zoning ordinances, Toro Canyon Plan and LCP.</u></p>
Action BIO-TC-1.2	<p>The Rural Neighborhoods of Torito Road, Serena Park, La Paquita and Ocean Oaks shall be designated on the Toro Canyon Plan ESH Overlay Map as areas of potential biological merit requiring further biological study for ESH delineation during an application for development.</p>		
DevStd BIO-TC-1.3	<p>The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.</p>	70	<p>The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.</p> <p><u>The County shall determine the physical extent of habitat meeting the definition of ESH on the project site, based on a site-specific biological study as described in Section 35-194, prepared by a qualified biologist or environmental specialist selected by, and reporting directly to, the County and retained at the applicant's expense.</u></p>
Policy BIO-TC-1 [Revised Location]	<p>Environmentally Sensitive Habitat (ESH) areas shall be protected and, where appropriate, enhanced.</p>	71	<p>Environmentally Sensitive Habitat (ESH) areas shall be protected <u>against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas, and, where appropriate, ESH shall be enhanced.</u></p>

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DevStd BIO-TC- 1.4	<p>Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):</p> <ul style="list-style-type: none"> • Southern Coast Live Oak Riparian Forest corridors - 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from the top of creek bank¹. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy; • Coast Live Oak Forests - 25 feet from edge of canopy; • Monarch butterfly habitat- minimum 50 feet from any side of the habitat; • Native grassland, a minimum ¼ acre in size - 25 feet; • Coastal Sage – minimum 20 feet; • Scrub oak chaparral – 25 feet from edge of canopy; • Wetlands - minimum 100 feet; and • Buffer areas from other types of ESH shall be determined on a case-by-case basis. These buffer areas, except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak Riparian 	72	<p>Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):</p> <ul style="list-style-type: none"> • Southern Coast Live Oak Riparian Forest corridors <u>and streams</u>- 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from <u>the outer edge of the canopy or the top of creek bank¹, whichever is greater</u>. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy; • Coast Live Oak Forests - 25 feet from edge of canopy; • Monarch butterfly habitat- minimum 50 feet from any side of the habitat; • Native grassland, a minimum ¼ acre in size— 25 feet; • Coastal Sage – minimum 20 feet; • Scrub oak chaparral – 25 feet from edge of canopy; • Wetlands – minimum 100 feet; and • Buffer areas from other types of ESH shall be determined on a case-by case basis. These buffer areas, except for

¹ “Top of creek bank” is identified differently by the Flood Control District for flood control purposes and by Environmental Health Services for the location of septic systems. For the purposes of the habitat protection policies and development standards of this Plan, the “top of creek bank” shall be defined as the

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	<p>and Southern Coast Live Oak Riparian Forests, may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development and other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.</p>		<p>basis. These buffer areas, except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak Riparian Forests, may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development <u>and in consultation with</u> other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.</p>
ADDED DevStd		73	<p><u>As a condition of approval of new development adjacent to Coastal sage scrub and native grassland, the applicant shall plant the associated ESH buffer areas with appropriate locally native plants.</u></p>
ADDED DevStd		74	<p><u>Reductions to buffers or other ESH protection standards shall not be granted, except where an economic viability determination is approved consistent with Policy BIO-TC- [cross-reference to suggested modification 79]</u></p>

recognized geologic top of slope.

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			<p><u>and DevStd BIO-TC- [cross-reference suggested modification 80].</u></p> <p><u>Reductions in development standards that are not related to ESH protection (e.g., setbacks) shall be permitted where necessary to avoid or minimize impacts to ESH.</u></p>
ADDED DevStd		75	<p><u>The drainages ditches on the north side of Padaro Lane and south side of Santa Claus Lane, mapped as Wetland (Not ESH) on the Toro Canyon Plan ESH Overlay Map, which were built to convey floodwaters, shall not be subject to the required wetland buffer and may be maintained by the Flood Control District. Maintenance shall not result in the enlargement, extension, or expansion of the existing drainage channels, but shall be limited to the removal of vegetation, debris, and sediment buildup.</u></p>
ADDED DevStd		76	<p><u>Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.</u></p>
DevStd BIO-TC-1.5	<p>Where documented zoning violations result in the degradation of an ESH the applicant shall be required to prepare and implement a habitat restoration plan. In Inland areas, this regulation shall apply to violations that occur after Plan adoption. However, in Coastal areas this development standard shall apply to ESH degraded in violation of the Local Coastal Program.</p>		
ADDED POLICY		77	<p><u>Public accessways and trails are considered resource dependent uses. Accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited</u></p>

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			<u>fencing shall be implemented as necessary to protect ESH.</u>
ADDED POLICY		78	<u>Any area mapped, or otherwise identified through historic evidence, as ESH shall not be deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.</u>
ADDED POLICY		79	<p><u>If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat (ESH) area or ESH buffer would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination.</u></p> <p><u>In addition, the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESH or ESH buffer that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on-site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESH and ESH buffer.</u></p>
ADDED DevStd		80	<u>To evaluate whether a restriction would not provide an economical viable use of property as a result of the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat area or ESH buffer, an applicant must provide the information about resources present on the property that is needed to</u>

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			<u>determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.</u>
Policy BIO-TC-2	Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH.	81	Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH. <u>All landscaping shall utilize only non-invasive plants.</u>
DevStd BIO-TC-2.1	Development requiring habitat enhancement in ESH and habitat protection in ESH buffer areas, shall include preparation and implementation of a Restoration Plan limited to native plants. Local seed stock or cuttings propagated from the Toro Canyon region shall be used if available.		
DevStd BIO-TC-2.2	Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall be limited to non-invasive plants within 500' from the ESH resource (see Appendix H, <i>List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas</i>).	82	Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall be limited to <u>utilize only non-invasive plants within 500' from the ESH resource</u> (see Appendix H, <i>List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas</i>).
ADDED DevStd		83	<u>Habitat restoration and invasive plant eradication may be permitted within ESH and ESH buffer areas if designed to protect and enhance habitat values provided that all activities occur outside of the breeding/nesting season of sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site-specific application with no migration to the surrounding environment.</u>
ADDED POLICY		84	<u>Land divisions except for mergers and lot line adjustments for property which</u>

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POLICY			<u>includes area within or adjacent to an ESH shall only be permitted if each new parcel being created could be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.</u>
ADDED POLICY		85	<u>The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat, shall be prohibited within and adjacent to ESH, where application of such substances would impact the ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the breeding/nesting season of sensitive species that may be affected by the proposed activities, winter season, or when rain is predicted within a week of application.</u>
ADDED DevStd		86	<u>The use of insecticides, herbicides, or other toxic substances by County employees and contractors in construction and maintenance of County facilities shall be minimized.</u>
ADDED DevStd		87	<u>Mosquito abatement within or adjacent to ESH shall be limited to the implementation of the minimum measures necessary to protect human health, and shall minimize adverse impacts to ESH.</u>
Policy BIO-TC-3	The County shall encourage the dedication of conservation or open space easements to preserve important biological habitats. Where appropriate and legally feasible, the County shall require such easements.		
Policy BIO-TC-4	Development within the Coastal Zone boundary shall be consistent with the Resource Protection and Development Policies of the County Local Coastal Program.		
DevStd BIO-TC-4.1	Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and		

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	<p>number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid disruption and fragmentation of biological resources in ESH areas, avoid or minimize removal of significant native vegetation and trees, preserve wildlife corridors, minimize fugitive lighting into ESH areas, and redirect development runoff/drainage away from ESH. Where appropriate, development applications for properties that contain or are adjacent to ESH shall use development envelopes and/or other mapping tools and site delineation to protect the resource.</p>		
DevStd BIO-TC-4.2	<p>Vegetation fuel management involving less than a cumulative total of one-half acre of land area is exempt from a coastal development permit unless otherwise required by the Coastal Zoning Ordinance - <i>ESH Overlay District</i> regulations (Article II, Sec. 35-97), general regulations for <i>Tree Removal</i> (Article II, Sec. 35-140), or general regulations for guidelines on repair and maintenance (Article II, Sec. 35-169.10 & Appendix C).</p>		
DevStd BIO-TC-4.3	<p>Significant vegetation fuel management² within ESH and ESH buffer areas may be permitted where, subject to a coastal development permit, findings are made consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1). The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.</p>	88	<p>Significant vegetation fuel management² within ESH and ESH buffer areas <u>implemented in association with existing development</u> may be permitted where, subject to a coastal development permit, findings are made <u>that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible</u> consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1). The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the</p>

² Significant vegetation fuel management shall be defined as removal and/or thinning involving a cumulative total of one-half acre (21,780 square feet) or more of land area.

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			impacts to ESH.
ADDED DevStd		89	<p><u>New development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer. The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.</u></p>
DevStd BIO-TC-4.4	In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, the County should ensure that essential infrastructure for existing agricultural production is protected and maintained.	90	<p>In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, the County should ensure that essential infrastructure for existing agricultural production is protected and maintained.</p>
Policy BIO-TC-5	Due to the existing land subdivision and built environment in the Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related landscaped areas are within the ESH buffer and not part of the ESH itself, structural additions to existing main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas subject to DevStd BIO-TC-5.1 through DevStd BIO-TC-5.3.	91	<p>Due to the existing land subdivision and built environment in the Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related landscaped areas are within the ESH buffer and not part of the ESH itself, structural additions to the existing primary residence may main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other</p>

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			<p><u>provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additions shall also comply with development standards in subject to-DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34.</u></p>
<p>DevStd BIO-TC- 5.1</p>	<p>For existing residential structures in any zone district and existing agricultural support structures on agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas, structural additions shall be designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to the following guidelines: a. Second-story additions shall be considered the preferred design alternative to avoid ground disturbance with limited canopy reduction including limbing of oaks and sycamores; and habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season). b. Where the existing structure is located only partially inside an ESH or ESH buffer area, additions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area.</p>	<p>92</p>	<p>For existing <u>lawfully constructed primary residences in Existing Developed Rural Neighborhoods residential structures in any zone district and existing agricultural support structures on agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas or adjacent to ESH, structural additions or improvements shall be scaled, sited, and designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to in conformance with the following guidelines-standards:</u> a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance <u>with limited canopy reduction including limbing of oaks and sycamores;</u> <u>b. Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season) and do not extend new areas of fuel modification into ESH areas.</u> <u>b-c. Where the existing structure is located only partially inside an ESH or ESH buffer area, a</u> <u>Additions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area. If the subject development cannot be located</u></p>

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			<p>away from ESH, then the extension of <u>a ground level development footprint shall be denied.</u> <u>d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.</u></p>
DevStd BIO-TC-5.2	<p>In Rural Neighborhoods, development on vacant parcels containing ESH shall be subject to Policy BIO-TC-4 and the applicable General Planning Area ESH regulations.</p>	93	<p>In Rural Neighborhoods, development on vacant parcels containing ESH shall be subject to Policy BIO-TC-4 and the applicable General Planning Area ESH regulations. <u>If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as ESH or ESH buffer to vacant parcels in Rural Neighborhoods would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, only as provided in Policy BIO-TC and DevStd BIO-TC- [cross reference to suggested modifications 79-80].</u></p>
DevStd BIO-TC-5.3	<p>All construction activity, including but not limited to staging areas, storage of equipment and building materials, and employee vehicles, shall be prohibited in ESH areas and to the maximum extent feasible shall be avoided in ESH buffer areas.</p>	94	<p>All <u>temporary</u> construction activity, including but not limited to staging areas, storage of equipment and building materials, and employee vehicles, shall be prohibited in ESH areas, and to the maximum extent feasible shall be avoided in ESH buffer areas. <u>Any native vegetation which is damaged during construction of the project shall be restored.</u></p>
ADDED Action		95	<p><u>The County shall encourage the Torito Road Rural Neighborhood Owners to develop a neighborhood management plan for the riparian oak forest that supports tree recruitment and use of locally native understory species.</u></p>
ADDED DevStd		96	<p><u>Landscape plans prepared for new development adjacent to ESH or ESH buffer in Existing Developed Rural Neighborhoods shall be prepared by a qualified biologist and shall include the use of locally native understory species. Where a phased recruitment of native riparian tree species is feasible, such planting shall be required</u></p>

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			<u>to ensure the long-term preservation of the riparian canopy.</u>
ADDED DevStd		97	<u>The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.</u>
Policy BIO-TC-6	All residential structures deemed nonconforming shall be allowed to be reconstructed pursuant to the nonconforming regulations contained in the zoning ordinance, Article II (Section 35-162) and the TCP Overlay District (Sec. 35-194).	98	All residential structures deemed nonconforming shall be allowed to be reconstructed pursuant to the nonconforming regulations contained in the zoning ordinance, Article II (Section 35-162) and the TCP Overlay District (Sec. 35-194).
Policy BIO-TC-7	Development shall avoid ESH and ESH buffer areas to the maximum extent feasible.		* <i>Inland Only]</i>
Action BIO-TC-7.1	The Article III Zoning Ordinance shall be amended to include an Environmentally Sensitive Habitat Area overlay district for the Toro Canyon area (ESH-TCP). Locations of biological resources/habitat areas shall be depicted on ESH Overlay Maps. The following general criteria are used to determine which resources and habitats in the inland Toro Canyon Planning Area are identified as environmentally sensitive. • Unique,		* <i>[Inland Only]</i>

* See LUP Modification 155

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	<p>rare, or fragile communities which should be preserved to ensure their survival in the future; • Habitats of rare and endangered species as protected by State and/or Federal law;</p> <ul style="list-style-type: none"> • Outstanding representative natural communities that have values ranging from particularly rich flora and fauna to an unusual diversity of species; • Specialized wildlife habitats which are vital to species survival; • Areas structurally important in protecting natural landforms that physically support species (e.g., riparian corridors protecting stream banks from erosion, shading effects of tree canopies); • Critical connections between separate ESH areas and/or migratory species' routes; and • Areas with outstanding educational values that should be protected for scientific research and educational uses now and in the future, the continued existence of which is demonstrated to be unlikely unless designated and protected. 		
DevStd BIO-TC- 7.2	Where development cannot be sited to avoid ESH, development in ESH and ESH buffer areas shall be designed and carried out in a manner that provides protection to the sensitive habitat areas to the maximum extent feasible.		* [Inland Only]
DevStd BIO-TC- 7.3	Development proposed within areas zoned with the ESH-TCP Overlay, shall be subject to the applicable regulations and permit requirements contained in the County Zoning Ordinance ESH-TCP Overlay regulations (Sec. 35-250E).		* [Inland Only]
DevStd BIO-TC- 7.4	Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid disruption and fragmentation of biological resources in ESH areas, avoid or minimize removal of significant native		* [Inland Only]

* See LUP Modification 155

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	<p>vegetation and trees, preserve wildlife corridors, minimize fugitive lighting into ESH areas, and redirect development runoff/drainage away from ESH. Where appropriate, development envelopes and/or other mapping tools shall be used to protect the resource.</p>		
<p>DevStd BIO-TC- 7.5</p>	<p>For existing residential structures in any zone district and existing agricultural support structures on agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH or ESH buffer areas, structural additions shall be designed to minimize ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to the following guidelines: a. Second-story additions shall be encouraged as a design alternative to avoid ground disturbance, subject to this Plan's Visual and Aesthetic Resource policies and development standards (Section IV.E). b. Where an existing structure is located only partially inside an ESH or ESH buffer areas, dwelling unit additions should be located on those portions of the structure located outside or away from the ESH or ESH buffer area. c. Where the structural addition cannot avoid significant ESH, a biological assessment may be required to determine the location of the addition that will result in the least disruption to the ESH. d. Where the structural addition cannot avoid the ESH or ESH buffer areas, enhancement of the ESH resource may be required to offset the increased area of disturbance.</p>		<p>* [Inland Only]</p>
<p>DevStd BIO TC- 7.6</p>	<p>New development on parcels entirely covered with ESH shall be subject to the following development standards to allow reasonable use of the property while protecting the habitat resource to the maximum extent feasible: a. The area of permitted ground disturbance for development shall be proportional</p>		<p>* [Inland Only]</p>

* See LUP Modification 155

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	<p>to the size of the parcel. No more than twenty percent (20%) of a parcel's total area should be disturbed by development, and at least eighty percent (80%) of the ESH on the property should be preserved (for example, on a five acre parcel entirely covered with ESH, no more than one acre should be disturbed by development including vegetation clearance for fire protection, and no less than four acres of ESH should be preserved), in a manner consistent with all other policies and development standards of the Toro Canyon Plan and the County Comprehensive Plan.</p> <p>b. Main structure and accessory structures & uses, including roadways, landscaping and agricultural uses, shall be clustered in one contiguous area to avoid fragmenting the habitat.</p> <p>c. Development shall be located adjacent to existing access roads and infrastructure to avoid fragmenting the habitat, subject to the requirements of "a" and "b" listed above, and a balancing of the policies of the Plan.</p>		
DevStd BIO-TC-7.7	<p>Vegetation fuel management as required by the local fire protection agency shall be allowed within 100 feet from all structures on the property. Beyond 100 feet, vegetation fuel management within ESH and the ESH buffer areas to reduce fire hazards shall require a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the plan be prepared by a qualified biologist to ensure that vegetation clearance/trimming minimizes the impacts to ESH.</p>		* [Inland Only]
DevStd BIO-TC-7.8	<p>All construction activity, including but not limited to staging areas, storage of equipment and building materials, and employee vehicles, shall avoid disturbance to the ESH and ESH buffer areas to the maximum extent</p>		* [Inland Only]

* See LUP Modification 155

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	feasible.		
Policy BIO-TC-8	New or expanded cultivated agricultural uses shall be prohibited within ESH areas and avoided to the maximum extent feasible in ESH buffer areas, except on agriculturally zoned parcels (i.e., AG-I or AG-II) subject to Policy BIO-TC-9.		* [Inland Only]
Policy BIO-TC-9	On agriculturally zoned parcels containing Southern Coast Live Oak Riparian Forest ESH, new or expanded cultivated agriculture may encroach up to 25 feet from the ESH as measured from the top of bank or, if the habitat extends beyond the top of bank, as measured from the edge of riparian vegetation. Agricultural uses in the ESH buffer shall be designed to reduce and direct runoff away from the ESH habitat and minimize the use of pesticides and herbicides to the maximum extent feasible.		* [Inland Only]
Policy BIO-TC-10	All residential structures deemed nonconforming shall be allowed to be reconstructed pursuant to the nonconforming regulations contained in the zoning ordinance, Article III (Section 35-307) and the TCP Overlay District (Sec. 35-355).		* [Inland Only]
Policy BIO-TC-11	Natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts. "Hardbank" channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.	99	Natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts, except as allowed under Policy FLD-TC- [cross reference to suggested modification 113] or Policy BIO-TC- [cross reference to suggested modification 79]. "Hardbank" channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.

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DevStd BIO-TC-11.1	Development shall include the buffer for Southern Coast Live Oak Riparian Forest set forth in DevStd TC-BIO-1.4. The buffer shall be indicated on all grading and building plans. Lighting associated with development adjacent to riparian habitat shall be directed away from the creek and shall be hooded. Drainage plans shall direct polluting drainage away from the creek or include appropriate filters, and erosion and sedimentation control plans shall be implemented during construction. All ground disturbance and native vegetation removal shall be minimized.	100	Development shall include the buffer for Southern Coast Live Oak Riparian Forest set forth in DevStd TC-BIO-1.4. The buffer shall be indicated on all grading and building plans. Lighting associated with development adjacent to riparian habitat shall be directed away from the creek <u>as required in DevStd BIO-TC- [cross reference to suggested modification 76]</u> and shall be hooded. Drainage plans shall direct polluting drainage away from the creek or include appropriate filters, and erosion and sedimentation control plans shall be implemented during construction. All ground disturbance and native vegetation removal shall be minimized.
DevStd BIO-TC-11.2	New permit applications that depend on alluvial well extractions or stream diversion shall be required to monitor the long-term effects on surface streamflow and riparian vegetation. Contingencies for maintaining streamflow (e.g., minimum bypass flows, alternate water sources, decreased pumping rates, groundwater discharge, etc.) shall be identified and implemented as such measures may be needed to mitigate significant adverse impacts to an ESH area.		
Policy BIO-TC-12	Significant biological communities not designated ESH should not be fragmented by development into small, non-viable areas.		
ADDED DevStd		101	<u>Development shall be sited and designed to concentrate development in existing developed areas, minimize road lengths and driveways, and reduce fuel modification to the maximum extent feasible to minimize impacts to native habitat, areas of steep slopes, and/or highly erosive/sandy soils.</u>
DevStd BIO-TC-12.1	Development shall not interrupt major wildlife travel corridors. Typical wildlife corridors include oak riparian forest and other natural areas that provide connections between communities.		

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DevStd BIO-TC- 12.2	Public trails shall be sited and designed to avoid or minimize impacts to native habitat, areas of steep slopes, and/or highly erosive/sandy soils. Trails should follow existing dirt road and trail alignments and use existing bridges. Where this is not possible, prior to final trail alignment, proposed trail routes should be surveyed and re-routed where necessary to avoid sensitive species, subject to final approval by Planning and Development and the Parks Department.		
Action BIO-TC- 12.3	The County shall pursue funding for protection and restoration of significant biological resources in the Toro Canyon Planning Area.		
Policy BIO-TC- 13	Native protected trees and non-native protected trees shall be preserved to the maximum extent feasible.		
DevStd BIO-TC- 13.1	A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "non-native protected tree" is at least 2.5 inches in diameter at this height. Areas to be protected from grading, paving, and other disturbances shall generally include the area six feet outside of tree driplines.	102	A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "non-native protected tree" is at least 25 inches in diameter at this height. Areas to be protected from grading, paving, and other disturbances shall generally include, <u>at a minimum</u> , the area six feet outside of tree driplines.
DevStd BIO-TC- 13.2	Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be replaced in a manner consistent with County standard conditions for	103	Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be <u>mitigated at a minimum ratio of 10:1</u> and replaced in a manner consistent

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	tree replacement. Native trees shall be incorporated into site landscaping plans.		with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.
Policy BIO-TC-14	Non-native trees and forests (e.g., eucalyptus groves and windrows) that provide known raptor nesting or major and recurrent roosting sites shall be protected.	104	Non-native trees and forests (e.g., eucalyptus groves and windrows) that provide known raptor nesting or major and recurrent roosting sites shall be protected.
Policy BIO-TC-15	Southern California steelhead trout is a federally listed endangered species which, if identified in the Plan area, shall be protected.		
DevStd BIO-TC-15.1	Development activity which requires ground disturbance which is proposed on parcels containing ephemeral (dry except during and immediately after rainfall) or intermittent (seasonal) streams and creeks, and associated riparian corridors, shall be subject to any permit requirements of the California Department of Fish and Game and the U.S. Army Corps of Engineers.		
DevStd BIO-TC-15.2	Development activity in streams and riparian corridors shall be subject to the "Guidelines for Salmonid Passage at Stream Crossings" prepared by the National Marine Fisheries Service (see Appendix G).		
ADDED POLICY		105	<u>The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.</u>
<i>Flooding and Drainage</i>			
Policy FLD-TC-1	Flood risks shall be minimized through appropriate design and land use controls, as well as through feasible engineering solutions that address existing problems.	106	<u>Flood risks to life and property shall be minimized through appropriate sizing, design, siting, and land use controls, for new development, as well as through feasible engineering solutions that address existing problems.</u>
DevStd FLD-TC-1.1	Development shall not be allowed within floodways except in conformance with Chapters 15A and 15B of the County Code, any other applicable statutes or ordinances, and all applicable policies of the	107	<u>Buildings within floodprone areas subject to inundation, including the floodplains of Toro, Picay, Garrapata, and Arroyo Paredon Creeks, shall be prohibited unless no alternative building site exists on the property and proper</u>

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	Comprehensive Plan and Local Coastal Program including but not limited to policies regarding biological resources.		<p><u>mitigation measures are provided to minimize or eliminate risks to life and property from flood hazard.</u></p> <p>Development <u>within floodprone areas</u> shall not be allowed within floodways except in conformance with Chapters 45A and 45B of the County Code, any other applicable statutes or ordinances, and all applicable policies of the Comprehensive Plan and Local Coastal Program including but not limited to policies regarding biological resources.</p> <p><u>Non-structural public access improvements such as trails and accessways may be permitted within floodprone areas consistent with the other provisions of the LCP within the coastal zone.</u></p>
DevStd FLD-TC-1.2	No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: <ul style="list-style-type: none"> • Permit reasonable use of property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation; or • Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county's Local Coastal Program. 	108	<p>No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: <ul style="list-style-type: none"> • Permit reasonable use of property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation; or • Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county's Local Coastal Program. </p>
DevStd FLD-TC-1.3	Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material, where feasible.	109	Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material; where feasible.
DevStd FLD-TC-1.4	Development within floodplain areas or with potential drainage issues shall be subject to Flood Control District review and approval.		
Policy FLD-TC-4 [Revised Location]	Proposed development, other than Flood Control District activities, shall be designed to maintain creek banks, channel inverts, and channel bottoms in their natural state. Revegetation to restore a riparian habitat is encouraged and may be permitted, subject to the provisions of DevStd	110	Proposed development, other than Flood Control District activities, shall be designed to maintain creek banks, channel inverts, and channel bottoms in their natural state, <u>except as allowed under Policy FLD-TC- [cross reference to Suggested Modification 113].</u> Revegetation to restore a riparian

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	FLD-TC-4.1 and any other applicable policies or standards.		113j. Revegetation to restore a riparian habitat is encouraged and may be permitted, subject to the provisions of DevStd FLD-TC-4.1 and any other applicable policies or standards.
DevStd FLD-TC-4.1 [Revised Location]	To the greatest extent feasible, native vegetation used to restore creek banks shall be incorporated into the landscape plan for the entire site in order to provide visual and biological continuity. All restoration plans shall be reviewed by the Flood Control District for compliance with the County Floodplain Management Ordinance #3898, for consistency with Flood Control District access and maintenance needs, and for consistency with current flood plain management and environmental protection goals.	111	To the greatest extent feasible, native vegetation used to restore creek banks shall be incorporated into the landscape plan for the entire site in order to provide visual and biological continuity. All restoration plans shall be reviewed by the Flood Control District for compliance with the County Floodplain Management Ordinance #3898, for consistency with Flood Control District access and maintenance needs, and for consistency with current flood plain management and environmental protection goals.
DevStd FLD-TC-4.1 [Revised Location]	To the greatest extent feasible, native vegetation used to restore creek banks shall be incorporated into the landscape plan for the entire site in order to provide visual and biological continuity. All restoration plans shall be reviewed by the Flood Control District for compliance with the County Floodplain Management Ordinance #3898, for consistency with Flood Control District access and maintenance needs, and for consistency with current flood plain management and environmental protection goals.	112	* [Inland Only]
ADDED POLICY		113	<u>Channelizations or other substantial alterations of streams and desiltation/dredging projects, shall be prohibited except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood protection for existing development where there is no other feasible alternative, or 3) the improvement of fish and wildlife habitat. Any channelization or stream alteration permitted for one of these three purposes shall minimize impacts to coastal resources, including the depletion of groundwater, and shall include maximum feasible mitigation</u>

* See LUP Modification 155

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			<u>measures to mitigate unavoidable impacts. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over "hard" solutions such as concrete or riprap channels.</u>
ADDED POLICY		114	<u>Solutions that address existing flood hazards shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider routine maintenance or other less intrusive solutions as a first priority over engineering structural solutions.</u>
ADDED DevStd		115	<u>Flood control measures shall not diminish or change stream capacity, percolation rates or habitat values. "Hardbank" measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible. Less intrusive measures shall include, but not be limited to biostructures, vegetation, and soil bioengineering. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a Restoration Plan.</u>
Action FLD-TC-1.5	In order to address drainage issues along the southeastern portion of Padaro Lane, the county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. Local drainageways and culverts should be cleared annually or as necessary.	116	In order to address drainage issues along the southeastern portion of Padaro Lane, the county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation <u>will include review of</u> shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. Local drainageways and culverts should be cleared annually or as necessary. <u>The study shall consider less intrusive measures (e.g., biostructures,</u>

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			<u>vegetation, and soil bioengineering) solutions as the primary means of defense against flood hazard and shall require maximum mitigation for all impacts to wetland, riparian, or other native trees and habitat.</u>
Policy FLD-TC-2	Short-term and long-term erosion associated with development shall be minimized.		
DevStd FLD-TC-2.1	Development shall incorporate sedimentation traps or other effective measures to minimize the erosion of soils into natural and manmade drainages, where feasible. Development adjacent to stream channels shall be required to install check dams or other erosion control measures deemed appropriate by Flood Control and Planning and Development to minimize channel down-cutting and erosion. To the maximum extent feasible, all such structures shall be designed to avoid impacts to riparian vegetation.	117	Development shall incorporate <u>BMPs designed sedimentation traps or other effective measures</u> to minimize the erosion of soils into natural and manmade drainages, where feasible. Development adjacent to stream channels shall be required to install check dams or other erosion control measures deemed appropriate by Flood Control and Planning and Development to minimize channel down-cutting and erosion. To the maximum extent feasible, all such structures shall be designed to avoid impacts to riparian vegetation.
DevStd FLD-TC-2.2	Grading and drainage plans shall be submitted with any application for development that would increase total runoff from the site or substantially alter drainage patterns on the site or in its vicinity. The purpose of such plan(s) shall be to avoid or minimize hazards including but not limited to flooding, erosion, landslides, and soil creep. Appropriate temporary and permanent measures such as energy dissipaters, silt fencing, straw bales, sand bags, and sediment basins shall be used in conjunction with other basic design methods to prevent erosion on slopes and siltation of creek channels and other ESH areas. Such plan(s) shall be reviewed and approved by both County Flood Control and Planning & Development.	118	Grading and drainage plans shall be submitted with any application for development that would increase total runoff from the site or substantially alter drainage patterns on the site or in its vicinity. The purpose of such plan(s) shall be to avoid or minimize hazards including but not limited to flooding, erosion, landslides, and soil creep. Appropriate temporary and permanent measures such as energy dissipaters, silt fencing, straw bales, sand bags, and sediment basins shall be used in conjunction with other basic design methods to prevent erosion on slopes and siltation of creek channels and other ESH areas. Such plan(s) shall be reviewed and approved by both County Flood Control and Planning & Development.
DevStd FLD-TC-2.3	Drainage outlets into creek channels shall be constructed in a manner that causes outlet flow to approximate the general direction of natural stream flow. Energy dissipaters beneath outlet points shall be incorporated where appropriate, and shall be designed to minimize erosion and habitat impacts.		

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DevStd FLD-TC- 2.5	Excavation and grading for development shall be limited to the dry season of the year (i.e., April 15th to November 1st) unless an approved erosion control plan is in place and all measures therein are in effect.		
ADDED POLICY		119	<u>Preparation of a Master Drainage Plan may be undertaken subject to all of the applicable provisions of the Toro Canyon Plan and certified LCP.</u>
Action FLD-TC- 2.4	As part of any Master Drainage Plan that may be developed for all or part of the Toro Canyon area, the Flood Control District should review the Master Drainage Plan to ensure that: 1. Drainage on shoreline and bluff-top properties shall be conveyed to the nearest acceptable drainage facility; 2. Diversion of natural flow is avoided, unless adequate drainage facilities exist downstream to the point where the diversion ceases; 3. The plan does not propose improvements that are inconsistent with modern flood plain management goals and environmental protection goals.	120	As part of any Master Drainage Plan that may be developed for all or part of the Toro Canyon area, the Flood Control District should review the Master Drainage Plan to ensure that: 1. Drainage on shoreline and bluff-top properties shall be conveyed to the nearest acceptable drainage facility; 2. Diversion of natural <u>stream</u> flow is avoided <u>and diversion of natural sheetflow is avoided where impacts to coastal resources may result</u> , unless adequate drainage facilities exist downstream to the point where the diversion ceases; 3. The plan does not propose improvements that are inconsistent with modern flood plain management goals and environmental protection goals.
Policy FLD-TC-3	Flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.	121	Flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.
Policy FLD-TC-4	Proposed development, other than Flood Control District activities, shall be designed to maintain creek banks, channel inverts, and channel bottoms in their natural state. Revegetation to restore a riparian habitat is encouraged and may be permitted, subject to the provisions of DevStd FLD-TC-4.1 and any other applicable policies or standards.	122	<i>[Move location and modify as shown in suggested modification 110.]</i>

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DevStd FLD-TC- 4.1	To the greatest extent feasible, native vegetation used to restore creek banks shall be incorporated into the landscape plan for the entire site in order to provide visual and biological continuity. All restoration plans shall be reviewed by the Flood Control District for compliance with the County Floodplain Management Ordinance #3898, for consistency with Flood Control District access and maintenance needs, and for consistency with current flood plain management and environmental protection goals.	123	<i>[Move location and modify as shown in suggested modification 111]</i>
ADDED POLICY		124	<u>Land divisions, including lot line adjustments, shall be prohibited unless all proposed parcels can be demonstrated to be safe from flood hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.</u>
<i>Geology, Hillsides and Topography</i>			
Text Heading		125	<i>Replace all headings of Geology, Hillsides, and Topography" with "Geology, Hillsides, Topography, and Watersheds"</i>
GOAL GEO-TC	Protect The Public Health, Safety And Welfare By Preserving Hillside And Watershed Areas In The Most Natural State Feasible; Protect Coastal Resources From The Adverse Effects Of Shoreline Protection Structures.		
Policy GEO-TC- 1	Hillside and watershed areas shall be protected to the maximum extent feasible to avoid adverse geologic impacts and preserve watershed function.		
DevStd GEO-TC- 1.1	Development shall be prohibited on slopes greater than 30% unless this would prevent reasonable use of property. In areas of unstable soils, highly erosive soils, or on slopes between 20% and 30%, development shall not be allowed unless an evaluation by a qualified professional (e.g., soils engineer, geologist, etc.) establishes that the proposed project will not result in unstable slopes or severe erosion, or unless this would	126	Development shall be prohibited on slopes greater than 30% <u>except as allowed under Section 35.102G of the Zoning Code</u> unless this would prevent reasonable use of property. In areas of unstable soils, highly erosive soils, or on slopes between 20% and 30%, development shall not be allowed unless an evaluation by a qualified professional (e.g., soils engineer, geologist, etc.) establishes that the proposed project will not result in

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	prevent reasonable use of property. Grading and other site preparation shall be minimized to the maximum extent feasible.		unstable slopes or severe erosion, or unless this would prevent reasonable use of property. Grading and other site preparation shall be minimized to the maximum extent feasible.
DevStd GEO-TC- 1.2	In order to minimize erosion, landscape plans shall be required for development on slopes greater than twenty percent. Such plans shall include revegetation of graded areas with appropriate native plantings. Landscape plans may be subject to review and approval by the County BAR.		
ADDED POLICY		127	<u>Grading and/or development-related vegetation clearance shall be prohibited where the slope exceeds 30 percent, except that driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.</u>
ADDED POLICY		128	<u>All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.</u>
ADDED POLICY		129	<u>Land divisions, including lot line adjustments, shall be prohibited unless all proposed parcels can be demonstrated to be safe from erosion and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.</u>
ADDED POLICY		130	<u>Land divisions that would result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% shall be prohibited. All land divisions shall be designed such that the location of building pads and access roads</u>

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			<u>minimizes erosion and sedimentation.</u>
ADDED POLICY		131	<u>New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings within the coastal zone, including replacement of an existing stream crossing, shall be bridged. Where feasible, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.</u>
Policy GEO-TC-2	Grading shall be designed to minimize scars in topography and avoid the potential for earth slippage, erosion, and other safety risks.		
DevStd GEO-TC-2.1	Temporary erosion control measures such as berms and appropriate location and coverage of stockpiled soils shall be used to minimize on- and offsite erosion related to construction occurring during the rainy season (November 1 to April 15).		
DevStd GEO-TC-2.2	Where feasible, development on previously cleared slopes that show scarring or significant disturbance shall include plans for appropriate revegetation of the affected areas.		
DevStd GEO-TC-2.3	Revegetation and/or landscaping of project sites shall be accomplished as soon as is feasible following grading/vegetation clearing in order to hold soils in place.		
Policy GEO-TC-3	Development shall be sited and designed to minimize the potential for geologic hazards, including but not limited to seismic, soil, or slope hazards.		
DevStd GEO-TC-3.1	The County shall require site-specific geologic and/or geotechnical investigation(s), prepared as appropriate by a Registered Geologist, Certified Engineering Geologist, and/or licensed Geotechnical Engineer, on sites that are on or adjacent to faults,		

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	landslides, or other geologic hazards or in any case where development is proposed in areas where natural grade is 20% or greater. Sites underlain by the potentially unstable Sespe Formation are of particular concern. Where applicable, the measures recommended to avoid or mitigate geologic hazards shall be incorporated into the proposed development in a manner that avoids or minimizes any potential adverse effects of such measures (for example, hillside scarring).		
DevStd GEO-TC- 3.2	Structures shall be prohibited within fifty feet of an Active or Potentially Active fault. All structures shall be built according to Seismic Zone IV standards or such other standards as may be in effect at the time of development. The County may require additional special engineering features to minimize potential structural damage from fault rupture for any structure that may be exposed to seismic hazards.		
DevStd GEO-TC- 3.3	All roads and driveways proposed on areas where natural grade is 20% or greater shall be reviewed for adequacy of engineering and drainage design, including but not limited to failure avoidance and erosion control.		
Action GEO-TC- 3.4	County Grading Ordinance Standard 14-6.(b)(5) does not apply to roadways constructed to provide access for geologic, geotechnical, and septic system testing. The County shall consider amending the grading ordinance so that if construction of such a roadway involves more than fifty cubic yards of grading and/or is located on any area where natural grade is twenty percent or greater, then a grading permit shall be required.	132	County Grading Ordinance Standard 14-6.(b)(5) does not apply to R roadways constructed to provide access for geologic, geotechnical, and septic system testing <u>that require grading of greater than 50 cubic yards shall require a coastal development permit and shall be subject to all other County provisions. The County shall consider amending the grading ordinance so that if construction of such a roadway involves more than fifty cubic yards of grading and/or is located on any area where natural grade is twenty percent or greater, then a grading permit shall be required.</u>
Policy GEO-TC- 4	All development on shoreline properties shall be designed to avoid or minimize hazards from coastal processes, to minimize erosion both on		

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	and off-site, and to avoid the need for shoreline protection devices at any time during the life of the development.		
DevStd GEO-TC-4.1	All development proposed for shoreline properties shall avoid or minimize erosion by minimizing irrigation, using culverts and drainage pipes to convey runoff, using sewers if available rather than septic systems, and other appropriate means.	133	All development proposed for shoreline properties shall avoid or minimize erosion by minimizing irrigation, <u>conveying runoff in a non-erosive manner using culverts and drainage pipes to convey runoff</u> , using sewers if available rather than septic systems, and other appropriate means.
DevStd GEO-TC-4.2	Where possible, all drainage from shoreline bluff-top properties shall be conveyed to the nearest roadway or drainage course. Where drainage must be conveyed over the bluff face, drainage lines shall be combined with those of neighboring parcels where possible, and shall be sited and designed to minimize the physical and visual disruption of the bluff and beach area.		
DevStd GEO-TC-4.3	New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan, or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted ¹ height or previously permitted ³ seaward extent of such devices, and shall not increase any interference with legal public coastal access.	134	<u>Shoreline and bluff protection structures may be permitted to protect existing structures that were legally constructed prior to the effective date of the certification of the LCP and only when it can be demonstrated that said existing structures are at risk from identified hazards, that the proposed protective device is the least environmentally damaging alternative and is designed to eliminate or mitigate adverse impacts to local shoreline sand supply. Alternatives analysis shall include the relocation of existing development landward as well as the removal of portions of existing development. "Existing structures" for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc.</u> <u>New shoreline protection devices may</u>

³ For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.

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			<p>be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan, or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted³ height or previously permitted¹ seaward extent of such devices, and shall not increase any interference with legal public coastal access.</p>
ADDED POLICY		135	<p><u>Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.</u></p>
ADDED POLICY		136	<p><u>Siting and design of new shoreline development and shoreline protective devices shall take into account anticipated future changes in sea level. In particular, an acceleration of the historic rate of sea level rise shall be considered. Development shall be set back a sufficient distance landward and elevated to a sufficient foundation height to eliminate or minimize to the maximum extent feasible hazards associated with anticipated sea level rise over the expected 100 year economic life of the structure.</u></p>
ADDED POLICY		137	<p><u>New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or</u></p>

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			<p><u>bluff erosion, inundation, wave uprush) at any time during the full projected 100-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. All development shall be setback a minimum of 10 feet landward of the most landward surveyed mean high tide line. Whichever setback method is most restrictive shall apply. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure.</u></p>
ADDED POLICY		138	<p><u>All new beachfront and blufftop development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development.</u></p>
ADDED POLICY		139	<p><u>Land divisions, including subdivisions, lot splits, lot line adjustments, and certificates of compliance which create new beachfront or blufftop lots, shall not be permitted unless the subdivision can be shown to create lots which can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 100 year life of the development.</u></p>
ADDED POLICY		140	<p><u>All new beachfront development shall be required to utilize a foundation system adequate to protect the structure from wave and erosion hazard without necessitating the construction of a shoreline protection structure.</u></p>
ADDED POLICY		141	<p><u>New development on or along the shoreline or a coastal bluff shall include, at a minimum, the use of secondary treatment waste disposal systems and shall site these new systems as far landward as possible in order to avoid the need for protective</u></p>

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			<u>devices to the maximum extent feasible.</u>
ADDED POLICY		142	<u>No shoreline protection structure shall be permitted for the sole purpose of protecting an ancillary or accessory structure. Such accessory structures shall be removed if it is determined that the structure is in danger from erosion, flooding or wave uprush or if the bluff edge encroaches to within 10 feet of the structure as a result of erosion, landslide or other form of bluff collapse. Accessory structures including, but not limited to, cabanas, patios, pools, stairs, landscaping features, and similar design elements shall be constructed and designed to be removed or relocated in the event of threat from erosion, bluff failure or wave hazards.</u>
ADDED POLICY		143	<u>All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures or, adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.</u>
ADDED POLICY		144	<u>Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a "vertical" seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.</u>
ADDED POLICY		145	<u>As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner</u>

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			<p><u>shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.</u></p>
ADDED POLICY		146	<p><u>As a condition of approval of a shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.</u></p>
ADDED POLICY		147	<p><u>As a condition of approval of new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time</u></p>

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			<p>during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.</p>
Policy GEO-TC-5	Grading shall be carried out in a manner that minimizes air pollution.		
DevStd GEO-TC-5.1	For any construction project that includes earth moving activities, the construction contractor shall implement Air Pollution Control District (APCD) dust control measures.		
DevStd GEO-TC-5.2	Prior to land use clearance, the applicant shall agree to comply with any conditions recommended by the APCD to reduce emissions of reactive organic compounds (ROC) and oxides of nitrogen (NOx) from construction equipment during project grading and construction.		
Policy GEO-TC-6	Excessive grading for the sole purpose of creating or enhancing views shall not be permitted. Typically, grading should not place more than five (5) feet of fill above natural grade.		
<i>History and Archaeology</i>			
GOAL HA-TC	Preserve and Protect Significant Cultural, Archaeological and Historical Resources in the Toro Canyon Plan Area to the Maximum Extent Feasible.		
Policy HA-TC-1	Archaeological resources shall be protected and preserved to the maximum extent feasible.		
DevStd HA-TC-1.1	A Phase 1 archaeological survey shall be performed when identified as necessary by a county archaeologist or contract archaeologist or if a county archaeological sensitivity map identifies the need for a study. The survey shall include areas of projects that would result in ground disturbances, except where legal ground disturbance has previously		

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	occurred. If the archaeologist performing the Phase I report, after conducting a site visit, determines that the likelihood of an archaeology site presence is extremely low, a short-form Phase I report may be submitted.		
ADDED DevStd		148	<u>The County shall consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.</u>
DevStd HA-TC-1.2	All feasible recommendations of an archaeological report analysis including completion of additional archaeological analysis (Phase 2, Phase 3) and/or project redesign shall be incorporated into any permit issued for development.		
Action HA-TC-1.3	The Board should consider either funding creation of a sensitive archaeological resources map for the Toro Canyon Area or allocating funds for a full-time County archaeologist.		
Policy HA-TC-2	Historic resources shall be protected and preserved to the maximum extent feasible.		*
Action HA-TC-2.1	The County Historic Landmarks Advisory Commission shall evaluate structures of historical significance in Toro Canyon.		*
Action HA-TC-2.2	To encourage the preservation of historic resources, the County shall pursue potential funding from federal, state and local sources to provide monetary assistance for applicants undertaking preservation and renovation projects for historic structures.		*
DevStd HA-TC-2.3	No permits shall be issued for any development or activity that would adversely affect the historic value of the properties listed in Table 13, unless a professional evaluation of the proposal has been performed pursuant to the County's most current		*

* See LUP Modification 155

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	Regulations Governing Archaeological and Historical Projects, reviewed and approved by Planning and Development and all feasible mitigation measures have been incorporated into the proposal.		
Action HA-TC-2.4	The County shall work with Caltrans to place a sign along Highway 101 which recognizes the commemorative value of the historic memorial oak trees. The sign could be located near a cluster of the oaks in the median strip and could read, "Oaks planted in memory of WWI soldiers, 1928."		*
<i>Visual & Aesthetic Resources</i>			
GOAL VIS-TC	Protect The Rural and Semi-Rural Character And Natural Features Of The Area, Particularly Public Views Of The Foothills, Santa Ynez Mountains And Pacific Ocean.		
Policy VIS-TC-1	Development shall be sited and designed to protect public views.		
DevStd VIS-TC-1.1	Development shall be sited and designed to minimize the obstruction or degradation of public views.		
DevStd VIS-TC-1.2	Development and grading shall be sited and designed to avoid or minimize hillside and mountain scarring and minimize the bulk of structures visible from public viewing areas. Mitigation measures may be required to achieve this, including but not limited to increased setbacks, reduced structure size and height, reductions in grading, extensive landscaping, low intensity lighting, and the use of narrow or limited length roads/driveways, unless those measures would preclude reasonable use of property or pose adverse public safety issues.	149	Development and grading shall be sited and designed to avoid or minimize hillside and mountain scarring and minimize the bulk of structures visible from public viewing areas. Mitigation measures may be required to achieve this, including but not limited to increased setbacks, reduced structure size and height, reductions in grading, extensive landscaping, low intensity lighting, and the use of narrow or limited length roads/driveways, unless those measures would preclude reasonable use of property or pose adverse public safety issues.
DevStd VIS-TC-1.3	In urban areas, development shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public	150	In urban areas, d Development shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public

* See LUP Modification 155

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	viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.		viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.
Policy VIS-TC-2	Development shall be sited and designed to be compatible with the rural and semi-rural character of the area, minimize impact on open space, and avoid destruction of significant natural resources.		
DevStd VIS-TC-2.1	Development, including houses, roads and driveways, shall be sited and designed to be compatible with and subordinate to significant natural features such as major rock outcroppings, mature trees and woodlands, drainage courses, visually prominent slopes and hilltops, ridgelines, and coastal bluff areas.		
DevStd VIS-TC-2.2	Grading for development, including primary and accessory structures, access roads (public and private) and driveways, shall be kept to a minimum and shall be performed in a way that: <ul style="list-style-type: none"> • minimizes scarring, • maintains to the maximum extent feasible the natural appearance of ridgelines and hillsides. 		
DevStd VIS-TC-2.3	Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, structures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.	151	Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, Structures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.
Action VIS-TC-2.4	In carrying out the Visual & Aesthetic Resources policies and development standards of this Plan and the TCP Overlay District, the County shall work with project applicants and designers, the Carpinteria-Summerland Fire Protection District, and the Montecito Fire Protection District to minimize excessive road/driveway construction and reduce or redesign fire buffers to minimize the removal of natural vegetation and related visual effects.		

152. Modification No. 152-154 – Toro Canyon Plan Appendices

<i>Appendices</i>			
Appendix B	Approved and Pending Projects	152	<i>Delete.</i>
Appendix E	Trail Siting Guidelines	153	<p>Section II.</p> <p>B. To the greatest extent feasible, tThe number of creek crossings should be limited in order to protect stream/riparian resources.</p> <p>C. Fences constructed along trail corridors should allow for wildlife movement, to the greatest extent feasible.</p> <p>Section III</p> <p>A. Where appropriate (e.g., adjacent to existing agricultural operations, buildings, residences, etc.), the County should construct fencing between the trail and private land uses. County Parks shall determine on a case-by-case basis appropriate fencing design and type. The County should consider landowner input on fence design. To the greatest extent feasible, fFencing should <u>shall</u> not hinder the <u>safety or the</u> natural movement and migration of animals and should be aesthetically pleasing.</p> <p>Section V</p> <p>B. Where appropriate, vVehicle barriers (e.g., steel access gates) should be constructed at trailheads to prevent unauthorized motor vehicle access, while allowing hikers, bicyclists, equestrians, and authorized motor vehicles <u>for emergency, maintenance, or to provide access to private in-holdings</u> to access the trail. Internal access control barriers (i.e., any combination of steel gates, chain link or barbed wire fence may be necessary) should also be installed along trails at appropriate “choke points” (e.g., placement of barriers utilizing natural topography and/or trail user decision points) in order to keep trail users on the established trail route and prevent trespass and/or further entry into private property and/or environmentally sensitive areas. <u>Trails may be designed for bicycle use where resource damage such as loss of vegetation or increased</u></p>

			<p><u>erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.</u></p> <p>C. Before the County permits public use of any acquired trail right-of-way, adequate <u>approved fencing consistent with resource protection</u> and other precautions (such as signage) should be installed to prevent vandalism to neighboring properties and appropriate trailheads should be acquired and constructed to provide for the public safety.</p>
Appendix H	List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas	154	Delete all references to the words "Near ESH Areas"

155.Modification – Non-Certified Text

All items in the preceding tables marked with an asterisk "" shall be marked within the Toro Canyon Plan with a footnote or other identifying symbol such that it is clearly evident that such policies, provisions, or other standards are not certified as part of the Local Coastal Program.*

156.Modification – Non-Certified Text

The following text shall be added at the end of Section I.C "Overview of the Toro Canyon Plan:"

Local Coastal Program

This Plan is designed to be consistent with the California Coastal Act, the Santa Barbara County Coastal Plan, and the provisions of Article II. Goals, policies, actions, and development standards within this document shall be applicable within the Toro Canyon Plan area. However, provisions of this Plan denoted with an asterisk shall not be certified by the Coastal Commission and therefore shall not be appealable.

157.Modification – Coastal Zone Boundary

All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, and the Land Use Plan Map shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

158.Modification – Land Use Map Agriculture Conversion Parcels

The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential

Minimum 2 acre on the Toro Canyon Land Use Designations Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated A-I-40. All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

159.Modification – Watershed Protection Overlay

Amend Toro Canyon Plan Toro Canyon Land Use Designations Map to designate all lands within the coastal zone portion of the Toro Canyon Planning Area having slopes 30% or greater as Watershed Protection Overlay (WTR).

160.Modification – ESH-TCP Overlay Map Potential Biological Merit

Modify text on Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map legend as follows: “(Within these areas, ~~the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only;~~ the extent of any associated riparian habitat must be determined by site-specific review)

161.Modification – ESH-TCP Overlay Map Monarch Butterfly Habitat

The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to:

- A. *Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.*
- B. *Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.*

162.Modification – ESH-TCP Overlay Map Padaro Lane Wetlands

The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

163.Modification – ESH-TCP Overlay Map Kelp

The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

VI. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PROGRAM/COASTAL ZONING ORDINANCE (IP/CZO)

164. Modification – Coastal Zone Boundary

All figures and maps submitted as part of the IP Amendment, including Zoning and Overlay maps, shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

165. Modification – ESH Map Potential Biological Merit

Modify text on Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map legend as follows: “(Within these areas, ~~the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only;~~ the extent of any associated riparian habitat must be determined by site-specific review)

166. Modification – ESH Map Monarch Butterfly Habitat

The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to:

- A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.*
- B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.*

167. Modification – ESH Map Padaro Lane Wetlands

The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

168. Modification – ESH-TCP Overlay Map Kelp

The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

169. Modification – Zoning Map Agriculture Conversion Parcels

The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential 2-E-1 on the Zoning Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated AG-I-40.

170.Modification – Watershed Protection Overlay Map

Amend Toro Canyon Plan Overlay Map to designate all lands within the coastal zone portion of the Toro Canyon Planning Area having slopes 30% or greater as Watershed Protection Overlay (WTR).

171.Modification – Watershed Protection Overlay District

Amend Section 35-53. Overlay District Designations and Applicability to add WTR Watershed Protection Overlay District to Overlay District list after AH Affordable Housing.

Amend Section 35-184.2 Board of Architectural Review: Applicability to add 9. WTR Watershed Protection Overlay District to end of list.

Add New Overlay District as follows:

Section 35-102G. WTR Watershed Protection Overlay District

Section 35-102G.1 Purpose and Intent

The purpose of this overlay district is to protect watershed functions and rural character, where land use intensification, including removal of native vegetation and grading for new development, in areas of steep slopes have adverse impacts through increased surface runoff, erosion, downstream siltation, and hillside scarring. The intent of this overlay district is to ensure that all development in such areas is designed and carried out i. a manner that (1) provides maximum protection to coastal waters and downstream properties; (2) preserves rural character and public views; and (3) limits development in areas constrained by lack of adequate services and access, and geologic and fire hazards. Lands unsuited for development include lands that have slopes 30 percent or greater.

Section 35-102G.2 Applicability.

The provisions of this overlay district shall apply to land or water zoned WTR on the applicable Santa Barbara County Zoning Map.

Section 35-102G.3 Affect of WTR Overlay District

Within the WTR Overlay District, all uses of land or water shall comply with the regulations of the base zone district. In addition, such uses must comply with the additional regulations of the WTR Overlay District before the issuance of a Coastal Development Permit under Section 35-169.

Section 35-102G.4 Processing

A. In addition to other application requirements, applications for a coastal development permit for any development within this district shall include:

1. A clear delineation of all areas which shall be graded, paved, surfaced, or covered with structures, including description of the surfacing material to be used.
2. A delineation of all streams, rivers, water bodies, wetlands, or ESH located on the site and any required setbacks or buffers.
3. Delineation of topography for the entire parcel(s) proposed to be developed.
4. A delineation of any disturbed areas on the parcel and evidence of previous permit or evidence showing no authorization was necessary for such disturbance, including clearance of native vegetation.
5. Detailed landscape plans.
6. A Storm Water Quality Management Plan (SWQMP) describing the Best Management Practices (BMPs) that will be implemented to protect water quality and minimize polluted runoff.
7. A Fuel Modification Plan.
8. Any other information pertinent to the particular development which might be necessary for the review of the project requested by the Planning and Development Department.

B. Any structural development in areas within this district shall be subject to approval by the Board of Architectural Review prior to issuance of a CDP as provided in Sec.35-184 Board of Architectural Review.

Section 35-102G.5 Additional Findings Required for Approval of Coastal Development Permits.

Prior to issuance of a coastal development permit for any development within the WTR Overlay District, a finding shall be made that the proposed development meets all applicable development standards in Sections 35-102G.9 through 35-102G.17.

Sec. 35-35-102G.6 Conditions on Coastal Development Permits.

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of watershed function, rural character, and land unsuited for development. Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions.

Sec. 35-102G.7 Additional Findings Required for Approval of Conditional Use Permits.

In addition to the findings required for approval of a Conditional Use Permit in Sec. 35-172, no Conditional Use Permit shall be approved unless all of the following findings are made by the appropriate decision-maker:

1. The project does not require extensive alteration of the topography.
2. The project does not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream watercourses or water bodies.
3. The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.

Section 35-102G.8 Minimum Application Submittal Requirements for Conditional Use Permit.

In addition to the contents of the application required for Conditional Use Permits under Section 35-172.6, no application shall be accepted for processing unless accompanied by the following submittals:

1. A topographic map showing existing slopes, watercourses, and types of vegetation on the property.
2. The location and specifications of all existing and proposed roads, terraces, and structures.

Sec. 35-102G.9. Use of Property.

The uses of the property and the siting, design, and size of any development approved on parcels within this district, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. Where all feasible building sites are constrained, the County may only permit development as specified below in Sections 35-102G.10 through 35-102G.16. In no case shall the approved development exceed the following maximum standards.

Sec. 35-102G.10. Development Standards for Slopes.

Development shall be prohibited on slopes 30% or greater to the maximum extent feasible. In areas of unstable soils, highly erosive soils, or on slopes between 20% and 30%, development shall not be allowed unless an evaluation by a qualified professional (e.g., soils engineer, geologist, etc.) establishes that the proposed project will not result in unstable slopes or severe erosion.

Sec. 35-102G.11. Development Standards for Development Area.

The maximum allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas 30% slope or greater are within this District shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.

Sec. 35-102G.12. Development Standards for Siting and Design.

All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.

Sec. 35-102G.13. Development Standards for Grading.

Grading and/or development-related vegetation clearance shall be prohibited where slope are 30 percent or greater, except that driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.

Sec. 35-102G.14. Confined Animal Facilities.

Confined animal facilities or corrals shall be prohibited where the slopes are 30 percent or greater.

Sec. 35-102G.15. Existing Disturbed Area.

Any disturbed area on the subject parcel(s) where previous permits or other historic evidence cannot be provided to indicate that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County Planning and Development review shall assume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after-the-fact coastal development permit is issued consistent with all current standards under the provisions of this Article. The County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.

Sec. 35-102G.16. Land Divisions.

Land divisions that would result in building pads, access roads, or driveways located on slopes 30% or greater, or result in grading on slopes 30% or greater shall be prohibited. All land divisions shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.

172.Modification – Toro Canyon Plan Overlay District

Amend proposed Section 35-194 of the Zoning Code (Exhibit 3) as follows:

Sec. 35-194. General

The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan and ~~serve to carry out certain policies of this Community Plan.~~ The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.

Sec. 35-194.1 Applicability

The provisions of this section apply to the Toro Canyon Plan Area as defined by the "Toro Canyon Plan Land Use Map." All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with ~~the TORO~~ this Overlay District.

Section 35-194.2 Processing

A. In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource expert, that includes the following:

1. A study identifying biological resources, both existing on the site and potential or expected resources. Where trees suitable for nesting or roosting or significant foraging habitat is present, a formal raptor survey will be conducted as part of the biological study. The biological study will account for seasonal variations in presence and abundance and will follow standard protocols developed by state or federal resource agencies when available. In the absence of standard protocols for raptors, for nesting raptor surveys (March 1-June 15) or for wintering raptor surveys (December 1-March 15), at a minimum, the area will be surveyed for 2 hours between dawn and 10:00 a.m. on five occasions with at least one week between surveys. If there is appropriate

habitat for owls on site, on at least three of the surveys observations will also be made during the period immediately before nightfall.

2. Photographs of the site.

3. A discussion of the physical characteristics of the site, including, but not limited to, topography, soil types, microclimate, and migration corridors.

4. An analysis of the frequency of wildfire affecting the site and the length of time since wildfire has last burned the site vegetation.

5. A map depicting the location of biological resources.

6. An identification of rare, threatened, or endangered species, that are designated or are candidates for listing under State or Federal Law, an identification of "fully protected" species and/or "species of special concern", and an identification of any other species for which there is compelling evidence of rarity, for example, plants designated "1B" or "2" by the California Native Plant Society, that are present or expected on the project site.

7. An analysis of the potential impacts of the proposed development on the identified habitat or species.

8. An analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

9. Project alternatives designed to avoid and minimize impacts to sensitive resources.

10. Mitigation measures that would minimize or mitigate residual impacts that cannot be avoided through project alternatives.

B. In addition to other application requirements, applications for a coastal development permit that are required to prepare and implement an Erosion and Sediment Control Plan, in this district shall include the following in the plan:

1. Description of the proposed practices to retain sediment on site and a schedule for their maintenance.

2. Description of surface runoff and erosion control practices to be implemented.

3. Description of vegetative practices to be used (including seeds, fertilizers, irrigation, and schedule for maintenance).

4. Measures to ensure that vehicles do not track materials onto public streets (and actions to remove such materials if necessary).

5. Best Management Practices for control of storm water and non-storm water discharges, such as discarded building materials, litter sanitary waste, washout of waste materials such as drywall, grout, gypsum, plaster, mortar, concrete, etc.

C. In addition to other application requirements, applications for a coastal development permit that are required to prepare and implement a Storm Water Quality Management Plan, in this district shall include the following in the plan:

1. Identification of potential pollutant sources that may affect the quality of the discharges to storm water.
2. The proposed design and placement of structural and non-structural BMPs to address identified pollutants.
3. A proposed inspection and maintenance program.
4. A method of ensuring maintenance of all BMPs over the life of the project.

Sec. 35-194.23 C-1 Zone District

1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:

- Any single family residence where there is no commercial use;
- Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;
- Residential structures and ~~general practitioner's/professional offices~~ only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and ~~professional office~~ uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. ~~Office uses shall be in less prominent locations than retail uses on the same site;~~
- Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.
- Hotels and motels shall be allowed as permitted use.
- Mini-mart/convenience stores shall be allowed as a permitted use.
- Auto service stations shall be allowed as a permitted use.
- Overnight recreation vehicle facilities shall be allowed with a Major CUP.
- Financial institutions shall not be a permitted use.
- General business offices (such as real estate offices and general practitioner's offices) shall not be a permitted use.

Secondary to a primary commercial use is defined as: a) A land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per one thousand (1,000) square feet of total gross floor area of commercial or industrial development. However, in no event shall the

total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use. Gross floor area shall not include parking areas.

2. "Western Seaside Vernacular Commercial" is defined as follows.

The chief style characteristic of Western Seaside Vernacular Commercial is simplicity. Examples of Western Seaside Vernacular have occurred in Avila Beach and Stearns Wharf. The following are characteristic of Western Seaside Vernacular architecture.

Orientation and Massing

Low massing
Little or no set-back from sidewalk edge

Roofs

Flat
Pitched gable roofs, but not gambrel or mansard roofs

Roof Materials

Composition
Wood shingles, subject to the allowances and limitations of the County Building Code
Shingles made to resemble wood or slate

Windows

"Picture"
Horizontally oriented multi-paned
Multi-paned with wood sash and frames
Wood framed

Doors

Simple wood
Simple wood and glass
Simple French doors

Siding

Board and batten
Beveled tongue and groove
Clapboard
Shingles

Colors

Weathered wood
Whitewash
Neutrals
Weathered colors

Sec. 35-194.34 Findings

In addition to the findings that are required for approval of a development project (as development is defined in this Article), as identified in each section of Division 11 - Permit Procedures of Article II, a finding shall also be made that the project meets all applicable policies and development standards included in the Toro Canyon Plan.

Sec. 35-194.45 Nonconforming Structures and Uses

1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached

appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that it meets the provisions of the Toro Canyon Plan and the certified LCP and evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

2. The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.

~~2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty four (24) month time limit may be extended by the Director one time for~~

~~good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.~~

3. Expansion of a legal nonconforming primary residence residential structures located within Environmentally Sensitive Habitat (ESH) buffer areas in an Existing Developed Rural Neighborhood: Any primary residence residential structure that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStds BIO-TC-5.1 and BIO-TC-5.34 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. ~~Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator.~~

4. Nonconforming agricultural support structures other than greenhouse development: Any nonconforming agricultural support structure, ~~other than "greenhouse development" as defined in the Carpinteria Agricultural (CA) Overlay,~~ that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure, other than "greenhouse development" as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. ~~Nonconforming "greenhouse development" as defined in the CA Overlay shall be subject to the provisions of the CA Overlay.~~

5. ~~Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan: Any agricultural support structure that is nonconforming solely due to~~

~~any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twentyfour (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.~~

~~6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO-TC-5.1 and BIO-TC-5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property.~~

~~7. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. Such a structure may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that:~~

- ~~i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction or structural repair; and~~
- ~~ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the~~

structure should reconstruction ~~or structural repair~~ of the nonconforming structure be denied.

Any such reconstruction ~~or structural repair~~ shall commence within twenty-four (24) months of the time of damage or destruction, ~~or the time of the owner's first documented discovery of the need for reconstruction or repair~~, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

8. Expansion of certain nonconforming structures located within front, rear, or side yard setback areas: Any structure that is nonconforming solely due to its location within a front, rear, or side yard setback area, due to any increase in such setback area that resulted from a change of zoning adopted with the Toro Canyon Plan, may be enlarged or expanded in a manner that does not further encroach into any such setback area and that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.

9. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.

910. Nonconforming uses: The replacement or re-establishment of nonconforming uses is subject to the regulations of the Toro Canyon Plan and this Article only to the extent that some type of permit may be required by this Article. Any such permit may be approved only in conformance with the regulations of the Toro Canyon Plan and this Article.

Sec. 35-194.56 Architectural Review Standards

...

Sec. 35-194.7 Economically Viable Use

If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that is designated

as ESH would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the provisions of this section.

Sec. 35-194.8 Economically Viable Use Determination

The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.
- b. The purchase price paid by the applicant for the property.
- c. 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.
- d. 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.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
- g. 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.
- h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
- j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
- k. Apart from any rents received from the leasing of 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 (5) 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.

I. Any additional information that the County requires to make the determination.

Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit

1. A coastal development permit for use other than those permitted in the ESH overlay and Toro Canyon Plan provisions may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):

a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the ESH Overlay would not provide an economically viable use of the applicant's property.

b. Application of the ESH standards would interfere with the applicant's investment-backed expectations.

c. The use proposed by the applicant is consistent with the applicable zoning.

d. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.

e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.

f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

Sec. 35-194.10 Agricultural Soils

Structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime agricultural soils to the maximum extent feasible. If it is demonstrated that non-agricultural development cannot be sited to avoid prime soils, such development shall be minimized to ensure protection of prime soils including, but not limited to, the following measures: limiting the number of accessory structures, restricting size of structures and building pads, minimizing the length of roads and driveways, concentrating development, and restricting grading.

Sec. 35-194.11 Land Divisions

Lot line adjustments and conditional certificates of compliance shall only be permitted if each parcel being established could be developed without adversely impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.

VII.FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section II (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

Santa Barbara County is requesting an amendment to the Land Use Plan and Implementation Plan portions of its certified Local Coastal Program (LCP) to designate the Toro Canyon Planning Area (hereafter "Toro Canyon"); add associated Toro Canyon goals, policies, actions, and development standards; and adopt implementing zoning district and overlay maps. The amendment will result in changes to the certified Santa Barbara Coastal Land Use Plan (hereafter referred to as the LUP/CP) and to the certified Santa Barbara County Coastal Zoning Ordinance (hereafter referred to as the IP/CZO). The nature of these changes are described below. The detailed amendment submittal, resolutions, and ordinances are attached as Exhibits 1-5 to this report.

The County proposes to amend the Coastal Land Use Plan (LUP) as follows:

1. Amend the Coastal Land Use Plan to incorporate the Toro Canyon Plan (Exhibit 5)
2. Amend the existing Coastal Land Use Plan text as follows:
 - a. Amend Table of Contents, second page to reflect new "Appendix I – Toro Canyon Plan;"
 - b. Amend Section 4.2 (pg. 147) to reflect adoption of the Toro Canyon Plan within the larger Carpinteria Valley area;
 - c. Amend the land use definition of Semi-Rural Residential (pg. B-4) to read, "The purpose of this designation is to provide for residential development that will preserve the semi-rural character of the Montecito Planning Area and portions of the Toro Canyon Plan area..."[remainder unchanged];
 - d. Amend Tables D-1 and D-2 (pgs D-2 & D-5) to add notations reflecting adoption of the Toro Canyon Plan
 - e. Amend Tables E-2 & E-3 (pgs. E-3 & E-4) to add notations reflection adoption of the Toro Canyon Plan.
3. Amend the Coastal Land Use Plan Maps as follows:

- a. Create a new map titled, "Toro Canyon Land Use Designations, Coastal Plan"
- b. Create a new map titled, "Toro Canyon Plan Land Use Overlay Designations, Coastal Plan;"
- c. Create a new map titled, "Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay, Coastal Plan"
- d. Amend the existing "Carpinteria Valley Coastal Plan: Land Use Overlay" to remove the area that is covered by the Toro Canyon Plan;
- e. Amend the existing "South Coast Rural Region Land Use Designations, Coastal Plan;"
- f. Retire the "Carpinteria Coast Rural Area Land Use Designations, Coastal Plan." A portion of the map not covered by the new Toro Canyon Land Use maps will be remapped onto the existing "South Coast Rural Region Land Use Designations, Coastal Plan" map.

Amend text of the Coastal Zoning Ordinance (IP/CZO) as follows:

1. Amend Section 35-95, *Zoning Districts*, of the Zoning Code to add a new MT-TORO (Mountainous Area – Toro Canyon Plan) District;
2. Amend Section 35-162.2.d, *Nonconforming Structures and Uses*, to reflect special provisions that apply within the Toro Canyon Plan area;
3. Add Section 35-194, *TCP-Toro Canyon Plan Overlay*, to implement portions of the Plan related to commercial uses and architectural guidelines within the C-1 District on Santa Claus Lane, make various provisions for the replacement, reconstruction, and expansion of various types of nonconforming structures within the Plan area, and add architectural review standards that apply throughout the Plan area.

Amend Zoning Maps as follows:

1. Adopt new Zoning Map (No. 35-54.90.0) titled, "Toro Canyon Plan Zoning Districts (Coastal Area)," thereby superseding and retiring existing maps no. 35-54.50.0 (Carpinteria Coast Rural Area Zoning Designations Article II (Coastal Area)) and 35-54.1.19 (Carpinteria Area Zoning Districts Urban Areas Article II), and amending existing map no. 35-54.40.1 (South Coast Rural Region Zoning Districts Article II (Coastal Area)) and Ordinance 661;
2. Adopt new Zoning Overlay Map (No. 35-54.91.0) titled, "Toro Canyon Plan Zoning Overlay Districts (Coastal Area)," thereby amending existing map no. 35-54.2.3 (Carpinteria Valley Coastal Plan: Zoning Overlay);
3. Adopt new Zoning Overlay Map (No. 35-54.92.0) titled, "Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II (Coastal Zone)," thereby amending existing map no. 35-54.2.3 (Carpinteria Valley Coastal Plan: Zoning Overlay)

B. BACKGROUND AND PURPOSE

The Toro Canyon Planning Area spans 5,950 acres in southeastern Santa Barbara County, in the western portion of the Carpinteria Valley between the Santa Ynez Mountains and the Santa Barbara Channel. Of this amount, approximately 2,150 acres are located within the coastal zone boundary. The Toro Canyon area within the coastal zone is predominantly agriculture with a mix of other uses including clustered residential and recreation areas in the vicinity of Via Real Road, rural residential, beach residential along Padaro Lane, and commercial areas along Santa Claus Lane and Via Real at the eastern Padaro Lane/Highway 101 interchange.

Toro Canyon supports a diversity of biological resources, including southern oak riparian woodland, coastal sage scrub and chaparral. The watersheds of both Toro Creek and Arroyo Paredon Creek support stretches of relatively undisturbed habitat serving as wildlife corridors between the mountainous Los Padres National Forest and the Pacific Ocean.

The purpose of the proposed Toro Canyon Plan (TCP) and associated LCP amendment is to provide the general public, landowners, and County decision-makers with a framework for planning future development in Toro Canyon that addresses local issues and protects the unique character of the area.

Approximately one third of the western Carpinteria Planning Area would be encompassed by the Toro Canyon Plan. A separate amendment (LCPA 2-02) is also under reviewed by the Commission to identify the location and intensity of greenhouse development in the Carpinteria Planning Area. Although a portion of the Carpinteria Planning Area would be permanently removed from the Carpinteria Planning Area and incorporated into the Toro Canyon Planning Area, as proposed, the greenhouse LCP amendment would include an overlay district that would overlap into the Toro Canyon Plan boundaries. Therefore, the development standards of the LCP Amendment 2-02 would apply to some agricultural lands which are also subject to the proposed Toro Canyon Plan.

C. LCP ORGANIZATION AND IMPLEMENTATION

The County has submitted the Toro Canyon Plan and associated land use, zoning, and overlay maps as an amendment to the certified Land Use Plan (LUP) and Implementation Program (IP). The Toro Canyon Plan is designed to provide specific policies and provisions to regulate the development within the Toro Canyon Plan area. A majority of the Plan area lies outside of the coastal zone boundary. The policies and provisions of the Plan cover both the Coastal Zone and Inland areas unless expressly stated otherwise. The Toro Canyon Plan was prepared as an "Area Plan" and thus was adopted in the same manner as a general plan amendment. The Toro Canyon Plan includes eleven elements: Land Use; Fire Protection/Hazards; Parks, Recreation, and Trails; Circulation; Public Services; Wastewater and Water; Biological Resources; Flooding and Drainage; Geology, Hillsides, and Topography; History and Archaeology;

and Visual and Aesthetic Resources. The document also contains maps, including a Land Use Map, Zoning, Trails Map, and Environmentally Sensitive Habitat (ESH) Overlay Map. Each element contains a narrative component as well as varying levels of policy.

The integration of the Toro Canyon Plan to serve as both the LCP and Area Plan for non-coastal areas has resulted in organizational features that are problematic under the Coastal Act. Some of the policies in the proposed Plan address general plan concerns (e.g., noise) that are unrelated to the Coastal Act. Also, some policies specifically refer to inland areas.

The Plan is organized into goals, policies, actions, and development standards. A "goal" for the purposes of an LCP amendment is interpreted as a broad general policy, which is binding under terms of the LCP. A "policy" is defined under this Plan as a specific statement that guides decision-making that is based on a general plan's goals and objectives as well as the analysis of data. The policy hierarchy is further broken down into "actions" which are defined as one-time actions, programs, procedures or development standards that carry out a policy. In general, actions are implementation level functions that require funding. Finally, "development standards" are measures that will be incorporated into development projects to provide consistency with the policies of the Plan.

Section 30108.5 of the Coastal Act defines the "Land Use Plan" as:

...the relevant portion of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.

Section 30108.5 thus distinguishes policies from the list of implementing actions. Section 30108.4 of the Coastal Act defines "Implementing Actions" as:

...the ordinances, regulations, or programs which implement either the provisions of the certified local coastal program or the policies of this division and which are submitted pursuant to Section 30502.

The "implementing actions," are distinct from the LUP, which is the collection of policies that guide and are carried out by the implementing actions. The Commission also uses the term "Implementation Program" (IP) to describe the zoning ordinances, zoning maps, and other "implementing actions" within a Local Coastal Program (LCP).

The Coastal Act and Commission regulations require that implementing programs and actions be included in the IP portion of the LCP, and that enforceable portions of the LUP be policies. Policy LUG-TC-2 of the Toro Canyon Plan describes the function of development standards as follows:

The Development Standards contained within this Plan shall be used to implement the policies of the Plan...

As described above in Policy LUG-TC-2, it is the intent of the development standards to carry out the Plan policies in the Toro Canyon Plan. Actions also, by definition, carry out policies. Therefore, the Commission finds that LUP Modification 3 is necessary to incorporate Actions, as modified as described in the above Suggested Modifications section of this staff report, as part of the implementation program. Additionally, to ensure that development standards and actions are incorporated as part of the implementation program under the Toro Canyon Plan Overlay District (TCP), IP Modification 172 requires clarifying language in Sec. 35-194 (General) to incorporate all Toro Canyon Plan development standards and actions by reference within the TCP Overlay District.

Several development standards and actions have been modified, pursuant to further discussion in this report, in ways that have shaped them into policies that will guide decision-making and implementing actions. As a result, the Commission finds that LUP Modifications 33 and 55 are necessary to designate these proposed actions at a policy level. Additionally, LUP Modifications 12 and 69 are necessary to designate development standards as policies.

1. Level of Specificity and Takings Language

Section 30523 of the Coastal Act states:

It is the intent of the Legislature that local coastal programs certified by the commission should be sufficiently specific to meet the requirements of Section 30108.5, but not so detailed as to require amendment and commission review for minor changes, or to discourage the assumption by local governments of post certification authority which ensures and implements effective protection of coastal resources. The Legislature also recognizes that the applicable policies and the level of specificity required to ensure coastal resource protection may differ between areas on or near the shoreline and inland areas.

Pursuant to Section 30108.5 the land use plan needs to be sufficiently detailed to indicate the kinds, location, and intensity of land uses, as well as providing specific resource protection and development policies. Section 30523 of the Coastal Act references this (Section 30108.5) definition in relation to the specificity requirements necessary for certification of LCPs by the Commission. In general, the specificity of the policies, development standards, and implementing actions must ensure coastal resource protection. In some instances within the Toro Canyon Plan, the language does not provide enough specificity to predict the level of protection of coastal resources. In some cases, phrases such as "to the maximum extent feasible" or "where feasible" may be necessary where impacts clearly cannot be avoided; however, these types of phrases may alternately serve to dilute enforceable prohibitions or restrictions that would otherwise be protective of resources. In such cases, this type of language has the potential to lessen the protection and intent of the policies and provisions of the LCP. Therefore, the Commission finds that LUP Modifications 21, 92, 99, 109, and 153 are necessary to strike the text "where feasible," "where appropriate," and "to the maximum extent feasible" where it reduces the protection of coastal resources and

leads to ambiguity with regard to the implementation of the LCP, inconsistent with Section 30523 of the Coastal Act.

Similarly, language in Toro Canyon Plan Policy LUG-TC-2, which describes how the standards of the Plan would be applied, is inconsistent with Section 30523 of the Coastal Act due to lack of specificity. LUG-TC-2 states:

The Development Standards contained within this Plan shall be used to implement the policies of the Plan. Where appropriate, these standards shall be applied to projects under review, unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.

The phrases "where appropriate" or "unless... inapplicable or ineffective..." weaken the implementation of the guiding policies. As a result, it cannot be predicted when the provisions of the LCP will be implemented. Therefore, LUP Modification 3 deletes the text that creates ambiguity as to whether development standards will be applied, thereby providing a greater degree of protection of coastal resources as required under Section 30523 of the Coastal Act.

Furthermore, the LCP submittal incorporates "takings" language that authorizes exceptions where standards of the Toro Canyon Plan preclude "reasonable use of property." Section 30010 of the Coastal Act provides legislative declaration for taking of private property as follows:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

General Land Use policies LUG-TC-4 and LUG-TC-6 provide general takings language to override any standards of the Toro Canyon Plan or LCP applicable to the Toro Canyon Plan area. Additionally, several policies and development standards have specific language to apply standards "unless this would preclude reasonable development or reasonable use of property." This language creates a very broad exception to the policies and standards, which is unwarranted and extremely vague. Such an exception could be applied to allow development that is inconsistent with the policies of the Coastal Act. Alternatively, for some of these provisions, the Coastal Act does not require an absolute prohibition on the type of development addressed. Therefore, these provisions can be modified to provide flexibility and there is no need for a takings exception. Therefore the Commission finds that LUP Modifications 7, 8, 32, 37, 41, 44, 72, 108, 126, and 149 are necessary to delete all references to reasonable use of property.

The only appropriate exception to policies or standards that are required to comply with policies of the Coastal Act is when it is necessary to avoid an unconstitutional taking of

private property. The deletion of the County's general "takings" language, as required above, will not preclude reasonable use of property. To address issues where there are known conflicts with ESH policies and where exceptions may be necessary to avoid an unconstitutional taking of private property, LUP Modifications 79 and 80 have been included to allow applicants to demonstrate that an exception to an ESH policy or standard is necessary to avoid a taking. IP Modification 172 (Sections 35-194.7, 35-194.8, and 35-194.9 of the Zoning Code) includes ordinance provisions that specify what information must be considered to determine whether application of the ESH policy or standard would be a taking, and if so, to determine the extent of development that must be allowed to avoid a taking.

Additionally, where all feasible building sites are constrained by a prohibition of development on slopes 30% or greater, IP Modification 171 specifies that the approved development may not exceed the maximum allowable development area (including the building pad and all graded slopes, if any, as well as any permitted structures) on parcels where all feasible building sites include areas 30% slope or greater are within this District shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.

In the future, if parcels are identified where it would be infeasible to approve development that complies with another standard of the LCP that is required to comply with the policies of the Coastal Act, the County has the ability to propose an LCP amendment that specifically identifies the parcel(s), provides the supporting documentation to determine whether takings exists, and requests authorization of development that does not comply with the relevant standards.

2. Relationship between Comprehensive Plan and Toro Canyon Plan

The Toro Canyon Plan contains both LCP policies and Comprehensive Plan (Inland) policies, which in some cases are mutually exclusive. Some policies are specifically designated for inland areas only. In addition, some policies address community objectives unrelated to the Coastal Act. It is inappropriate for policies not covered by the Coastal Act to be certified as part of the Local Coastal Program. However, the deletion of such language is not appropriate given that the project represents a regional planning approach. Therefore, to strike a balance which allows non-coastal language to remain as part of the document but which shall not be deemed part of the certified LCP, the Commission finds that LUP Modifications 155 and 156 are necessary to designate these non-coastal designations by requiring that applicable policies or standards be marked by special footnote, or other symbol, to clarify that such provisions are not binding under the certification process. Furthermore, all policies, development standards or policies subject to 155 and 156 are designated with an asterisk in the Modification Tables. The asterisk identifies provisions of the Plan that shall be still be applied within the coastal zone but which shall not represent certified language of the LCP, and shall therefore not be appealable to the Commission.

To further clarify the relationship between the Comprehensive Plan (Inland) and the LCP, LUP Modification 2 modifies Policy LUG-TC-1 to reflect that should there be any conflict between the certified LCP, including the provisions of the Toro Canyon Plan, and the County's Comprehensive Plan or other guidance, the protections provided under the LCP shall prevail for areas within the coastal zone.

3. Relationship between Existing LCP and Toro Canyon Plan

Section 30522 of the Coastal Act states:

Nothing in this chapter shall permit the commission to certify a local coastal program which provides for a lesser degree of environmental protection than that provided by the plans and policies of any state regulatory agency that are formally adopted by such agency, are used in the regulatory program of such agency, and are legally enforceable.

The Toro Canyon Plan includes, by reference, relevant policies of the Coastal Land Use Plan as described in Policy LUG-TC-1 of the Toro Canyon Plan. The policy direction and development standards of the Toro Canyon Plan will govern site-specific development proposals. Coastal Act Policy 30522 does not allow certification of an LCP that provides for a lesser degree of environmental protection than other adopted plans, programs or policies of the regulatory agencies, including the existing certified LCP. To ensure the maximum level of protection of coastal resources, should any conflict arise between the Toro Canyon Plan and the existing certified LCP, LUP Modification 2 clarifies that if any policy or provision of the Toro Canyon Plan conflicts with any provision of the certified LCP, the policy that is most protective of resources, shall prevail.

4. Coastal Zone Boundary Change

On June 13, 2003, the Coastal Commission approved minor boundary adjustment MBA No. 01-2003 for the Toro Canyon Planning Area which proposed to adjust the boundary in order to minimize and, where possible, avoid the bisection of individual properties, to improve the ease of locating the line in relation to readily identifiable features, and to encompass areas of environmentally sensitive habitat which are presently bisected. The County's request was based primarily on the rationale that adjustments to these parcels would improve the administration of the LCP in this area by simplifying and clarifying the location of the Coastal Zone Boundary in relation to property boundaries. The Commission approved the minor relocation boundary with the exception of three parcels (005-040-025, -031, -040) due to the presence of Toro Creek and adjacent environmentally sensitive habitat areas. The Toro Canyon Plan figures and Land Use and Zoning maps submitted under this LCP Amendment illustrate the *proposed* coastal zone boundary. Since the June approval, the County has provided some updated figures that indicate the Commission-approved minor boundary adjustment. Exhibits to this staff report may not contain the June 13, 2003 coastal zone boundary adjustment. However, an accurate coastal zone boundary delineation is shown on the proposed ESH Map as displayed in Exhibit 8. To ensure that the coastal zone boundary is accurately depicted and to avoid any potential conflicts regarding interpretation of the

coastal zone boundary, LUP Modification 157 and IP Modification 164 require that all figures and maps illustrate the June 13, 2003 approved boundary adjustment.

5. Incorporation By Reference and Implied Approvals

Section 30514 states:

(a) A certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the commission.

...

The County's amendment makes a number of references to documents in ways that could be interpreted as land use guidance. These referenced materials have not been submitted as an LCP amendment, are not presently part of the certified LCP, and are subject to change without further notice to the Commission. Furthermore, the overall incorporation (by reference in this case) of such documents into the certified LCP has potential wide-ranging effects that were not specifically reviewed for impacts to coastal resources or adequately addressed during noticing of the LCP amendment. Therefore, to ensure that all implementing ordinances, regulations, or other actions within the coastal zone are officially certified as required under Section 30514 of the Coastal Act, the Commission finds that LUP Modification 2 is necessary to clarify that any references to external documents or other non-certified guidance shall not override the protections afforded in the certified LCP. Where specific references to external documents are incorporated into policies or standards and which may inadvertently incorporate larger issues that are not subject to this amendment, and subsequently have the potential to weaken implementation of such provisions, the Commission finds that such references shall be deleted as provided in LUP Modifications 31, 107, 111, 132, and 151. Though external documents cannot be relied upon for land use and permitting decisions in the coastal zone unless adopted, incorporated and certified by the Commission, this limitation does not preclude the County's administrative use of these documents for informational purposes during CDP review and does not limit their applicability to other required approvals or permits. In particular, Action FLD-TC-1.5 has been modified, pursuant to LUP Modification 116, to ensure that the preliminary engineering external document is relied upon only as guidance and does not allow future projects to preempt any provisions of the certified LCP.

Additionally, some policies reference documents and programs that have not yet been developed. As provided in Section 30514, the Coastal Act requires any documents that modify implementing ordinances, regulations, or other actions within the coastal zone to go through the certification process. However, to avoid any future confusion and eliminate any implied future approval, LUP Modification 2 clarifies that any future modification(s) to the Toro Canyon Plan or the implementing actions, including any recommended modifications, studies, plans, programs, or other changes, shall not be effective until and unless it has been certified by the Coastal Commission as an amendment to the LCP. The Commission further finds that LUP Modifications 6 and 14

are necessary for clarification purposes where the policies refer to specific future amendments of the Toro Canyon Plan or ordinances but do not specify that they are not effective until and unless certified by the Coastal Commission.

Furthermore, all projects and/or project recommendations arising as a result of policies, development standards, or actions of the Toro Canyon Plan are subject to all of the policies and provisions of the Toro Canyon Plan and certified LCP, and may require an LCP Amendment for full implementation. Where specific policies or provisions of the Toro Canyon Plan require project consistency with other general standards but do not reference the LCP, the Commission finds it necessary to specify that all such projects must be consistent with the policies and provisions of the Toro Canyon Plan and the certified LCP as described in LUP Modifications 12 and 13.

The Commission further requires LUP Modification 152 to delete Appendix B of the Toro Canyon Plan, which provides a list of approved and pending projects in 1999, to eliminate any confusion that these projects are approved as a result of the certification of the Toro Canyon Plan. New development, including any pending projects, will be subject to the policies and provisions of the Toro Canyon Plan when the full certification process is complete and the Commission has concurred with the Executive Director's determination that the County's acceptance of the suggested modifications is legally adequate.

Note, the certification of the Land Use Plan and Zoning Maps, or any portion of the Toro Canyon Plan, does not constitute a finding that the parcel lines shown are indicative of lot legality. Parcel delineations are for general planning purposes only and no such approval is implied.

D. SCENIC AND VISUAL RESOURCES

1. Coastal Act Policies

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

2. Existing LUP Policies

Policy 3-13:

Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

Policy 3-14:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

Policy 4-2:

All commercial, industrial, planned development, and greenhouse projects shall be required to submit a landscaping plan to the County for approval.

Policy 4-3:

In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public view places.

Policy 4-4:

In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.

Policy 4-6:

Signs shall be of size, location, and appearance so as not to detract from scenic areas or views from public roads and other viewing points.

Policy 4-9 (View Corridor Overlay):

Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway #101, and shall be clustered to the maximum extent feasible.

Policy 4-10 (View Corridor Overlay):

A landscaping plan shall be submitted to the County for approval. Landscaping when mature, shall not impeded public views.

Policy 4-11 (View Corridor Overlay):

Building height shall not exceed one story or 15 feet above average finished grade, unless an increase in height would facilitate clustering of development and result in greater view protection, or a height in excess of 15 feet would not impact public views to the ocean.

Policy 8-7:

Landscaping and screening shall be installed within six months of completion of new greenhouses and/or accessory buildings. Such landscaping shall reasonably block the view of greenhouse structures and parking areas from the nearest public road(s) within five years of project completion.

3. Existing IP/CZO Policies

Sec. 35-59. Development Standards: General.

The policies in this DIVISION 3 are part of the Santa Barbara County Coastal Land Use Plan (LUP) and hereby incorporated into this Article. These policies shall serve as development standards for all developments subject to the provisions of this Article.

1. In areas designated as rural, except rural neighborhoods, on the Land Use Plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.

2. In areas designated as urban and rural neighborhoods on the Land Use Plan maps, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.

3. The densities specified in the Land Use Plan are maximums and shall be reduced if it is determined that such reduction is warranted by conditions specifically applicable to a site, such as topography, geologic or flood hazards, habitat areas, or steep slopes. However, densities may be increased for affordable housing projects provided such projects are found consistent with all applicable policies and provisions of the local Coastal Program.

4. In no case shall above-ground structures, except for necessary utility lines and fences for agricultural purposes, be sited on undisturbed slopes exceeding 40 percent.

Sec. 35-96.3. VC View Corridor Overlay District: Processing.

1. Any structural development in areas within the View Corridor Overlay district shall be subject to approval by the Board of Architectural Review prior to issuance of a Coastal Development Permit.

2. The application to the Board of Architectural Review shall include a plot plan showing any landscaping, finished building elevations, data showing the proposed color scheme, materials of construction, and a drawing to scale showing any signs to be erected, attached to or painted on such structure.

3. The Board of Architectural Review shall approve the plans if it finds conformance with the following standards:

a. Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway 101, and shall be clustered to the maximum extent feasible.

b. Building height shall not exceed 15 feet above average finished grades, unless an increase in height would facilitate clustering of development and result in greater view protection, or a height in excess of 15 feet would not impact public views to the ocean, in which case the height limitations of the base zone district shall apply.

c. Structures shall not be of an unsightly or undesirable appearance.

4. If, after review, the Board of Architectural Review determines that the proposed structure(s) obstructs views to the ocean are of a height or scale so as to be inharmonious with the surrounding area or are of an undesirable or unsightly appearance, the Board of Architectural Review shall confer with the applicant in an attempt to bring the plans into conformance with the standards listed above. If the plans are not brought into conformance with said standards, the Board of Architectural Review shall disapprove the plans and no Coastal Development Permit shall be issued.

5. If the applicant is not satisfied with the action of the Board of Architectural Review, the applicant may within 10 days after the action of the Board of Architectural Review appeal in writing to the Planning Commission in accordance with the provisions of Sec. 35-182.2. (Appeals). The Planning Commission shall hold a public hearing on said appeal. If the appeal is granted by the Planning Commission, the Coastal Development Permit shall be issued provided all other requirements of this Article have been met.

4. General Discussion

The Toro Canyon Planning Area encompasses southeastern Carpinteria Valley, the aligning foothills, Paredon Ridge, and sheer upper face of the Santa Ynez Mountains to the Pacific coastline. The character of the areas is dominated by agriculture, rural, and semi-rural residential land uses with some smaller commercial areas. As provided in the Toro Canyon Plan, the area provides vistas of great natural beauty, visible from major travel corridors as well as from public trails, public streets and parks in the Santa Ynez foothills and Paredon Ridge. Major view corridors into Toro Canyon include U.S. Highway 101, Via Real, State Route 192 (East Valley Road/Foothill Road), Toro Canyon Road, and Ladera Lane. Furthermore, the rolling foothills, ridgelines, creeks, rock outcroppings, and woodlands contribute to the area's high scenic value. Open space areas of chaparral, oak woodlands, and riparian vegetation are visible from much

of the area. Paredon Ridge forms a dominant backdrop to the coastal plain with its natural landforms, native vegetation, and scattered orchards contributing greatly to Toro Canyon's rural and semi-rural character.

Coastal Act Section 30251 requires that visual qualities of coastal areas be protected, landform alteration be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 requires that development be sited and designed to protect views to and along the ocean and other scenic coastal areas. This policy also requires that development be sited and designed to be visually compatible with the character of surrounding areas. New development must also minimize the alteration of natural landforms, and, where feasible, include measures to restore and enhance visual quality where it has been degraded. Furthermore, Policy 4-3 of the certified LUP requires that new development in rural areas be compatible with the character of the surrounding natural environment in height, scale, and design. Additionally LUP Policy 3-14 requires that new development be designed to fit the topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Policy 3-14 further requires that areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

The Toro Canyon Plan proposes policies and development standards to site and design development to protect public views and be compatible with the rural and semi-rural character of the area. New development must be designed to avoid or minimize hillside and mountain scarring and minimize the bulk of the structures visible from public viewing areas. Among the possible mitigation measures required to ameliorate the visual impacts of new development are increased setbacks, reduced structure size and height, reductions in grading, extensive landscaping, low intensity lighting, and the use of narrow or limited length roads/driveways. Furthermore, the visual policies require suitable location of new development on ridgeline properties, minimization of impacts to open space and avoidance of damage to natural resources. Measures include minimizing grading and vegetation removal, and siting new development to be subordinate to natural features such as mature trees, woodlands, and ridgelines. However, the siting and location policy related to ridgeline development is applied only to development in urban areas. The Commission finds that this policy can only effectively protect visual resources and ridgelines if it applies in all circumstances, as described in LUP Modification 150. Additionally, DevStd PRT-TC-2.1, as modified in LUP Modification 32, requires development adjacent to trail easements to include setbacks and landscaping to minimize conflicts between use of private property and public trail use.

In referencing visual resources under Section 30251, the Coastal Act includes protection of visual and aesthetic resources as "coastal" resources, and references to the general protection of "resources" would therefore include visual resources. Subsequently, overarching goals of the Toro Canyon Plan, which generally apply the protections of the Chapter Three Policies of the Coastal Act, apply to visual resources. For instance, Goals LUG-TC, LUR-TC, and LUA-TC, as modified in suggested LUP

Modifications 1, 11, and 16, provide for new development in a manner that avoids degradation of the natural environment and other coastal resources.

Even with the proposed requirements for siting and design of new development, the Commission finds that visual resources could be degraded if an overarching development standard for protection of resources, including visual resources, is not clarified. Therefore, to protect the scenic and visual resources consistent with Section 30251 of the Coastal Act and LUP Policy 4-3, LUP Modification 4 is necessary to specify that all development, including agriculture, shall be scaled to protect resources, including visual resources, and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of driveways; number of accessory structures; size of development envelopes; amount and location of grading; vegetation removal; and night lighting.

Additionally, the LCP amendment provides several policies and implementation measures to protect watershed functions and rural character where land use intensification, including removal of native vegetation and grading for new development, in areas of steep slopes may result in increased surface runoff, erosion, downstream siltation, and hillside scarring. Section E.6 (Watershed Protection) of this report discusses the policies and suggested modifications for watershed protection in further detail below. However, a function of watershed protection is the preservation of visual resources and rural character. Visual resources are vulnerable to degradation through improper location and scale of building development, blockage of coastal views, alteration of natural of landforms by poor cutting, grading, and filling practices, and by poor design or placement of roadside signs and utility lines. To protect views and rural character as well as other coastal resources, Policy BIO-TC-12, DevStd GEO-TC-1.1, and Action GEO-TC-3.4, as modified as suggested in LUP Modifications 126 and 132, minimize fragmentation of vegetation, restrict development on 20% to 30% slopes, and require that exempt roads that require grading of greater than 50 cu. yds. to be subject to permit. Furthermore, the policies that provide for overall watershed planning are inherently linked to visual resources as a result of the development restrictions on steep slopes that are visible from public viewing areas in the Toro Canyon Area, including policies and development standards added in suggested modifications, 101, 105, 127, 128, 129, 130, and 131. These policies and standards work in combination to site, design, and concentrate development in existing developed areas, minimize road lengths and driveways, and reduce fuel modification to the maximum extent feasible, prohibit development (including fuel modification, vegetation clearance and grading) on greater than 30% slopes, and prevent land divisions where land is unsuitable for development and would lead to additional parcels and development on properties with geologic hazards and steep slopes. These measures will serve to minimize impacts to visual resources consistent with Section 30251 of the Coastal Act.

Specifically, the Commission finds that development on slopes 30% or greater have the potential to substantially degrade the area's visual resources. As part of a watershed

planning approach which will preserve views and character to the maximum extent feasible the Commission finds it necessary to institute a program to designate properties having 30% or greater slopes as a Watershed Protection Overlay District and prohibit development on such slopes to the maximum extent feasible and consistent with siting, design, grading, water quality management, and land division development standards as detailed in LUP modification 159 and IP Modifications 170 and 171 (see "Watershed Protection" Section of this staff report). The Watershed Protection Overlay District includes provisions for Board of Architectural Review prior to issuance of a CDP for all proposed structures on slopes 30% or greater. Protection of the visible slopes and ridgelines is consistent with Section 30251 and IP modifications 170 and 171 conform with and are adequate to carry out the relative provisions of the Toro Canyon Plan LUP policies.

The Commission therefore finds that the proposed LUP amendments as submitted are inconsistent with and inadequate to carryout the requirements of Section 30251 of the Coastal Act unless modified as suggested above. Furthermore, the proposed IP amendments are not consistent with or adequate to carryout the provisions of the LUP, as modified, unless modified as suggested above.

E. HAZARDS, WATERSHED PROTECTION AND WATER QUALITY

1. Coastal Act Policies

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

Section 30233 of the Coastal Act states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging

alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already

developed parts of south San Diego Bay, if otherwise in accordance with this division.

(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects 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, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30250 of the Coastal Act states, in relevant 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...

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually

compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states, in part, that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

2. Existing LUP Policies

Policy 2-2:

The long term integrity of groundwater basins or sub-basins located wholly within the coastal zone shall be protected. To this end, the safe yield as determined by competent hydrologic evidence of such a groundwater basin or sub-basin shall not be exceeded except on a temporary basis as part of a conjunctive use or other program managed by the appropriate water district...

Policy 2-5:

Water-conserving devices shall be used in all new development.

Policy 2-10:

Annexation of rural area(s) to a sanitary district or extensions of sewer lines into rural area(s) as defined on the land use plan maps shall not be permitted unless required to prevent adverse impacts on environmentally sensitive habitat, to protect public health, or as a logical extension of services.

Policy 3-1:

Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.

Policy 3-2:

Revetments, groins, cliff retaining walls, pipelines and outfalls, and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and so as not to block lateral beach access.

Policy 3-3:

To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the parcel by the County.

Policy 3-12:

Permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works, i.e., dams, stream channelizations, etc.

Policy 3-13 (Hillside and Watershed Protection):

Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

Policy 3-14 (Hillside and Watershed Protection):

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparations is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

Policy 3-15 (Hillside and Watershed Protection) :

For necessary grading operations on hillsides, the smallest practical area of land shall be exposed at any one time during development, and the length of exposure shall be kept to the shortest practicable amount of time. The clearing of land should be avoided during the winter rainy season and all measures for removing sediments and stabilizing slopes should be in place before beginning the rainy season.

Policy 3-16 (Hillside and Watershed Protection):

Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.

Policy 3-17 (Hillside and Watershed Protection):

Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be

stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.

Policy 3-18 (Hillside and Watershed Protection):

Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible to facilitate groundwater recharge.

Policy 3-19 (Hillside and Watershed Protection):

Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.

Policy 3-20 (Hillside and Watershed Protection):

All development within the coastal zone shall be subject to the slope density curve (Plate A) of the County Zoning Ordinance No. 661 (Article VII, Section 20). However, in no case shall above-ground structures, except for necessary utility lines and fences for agricultural purposes, be sited on undisturbed slopes exceeding 40 percent.

Policy 3-21 (Hillside and Watershed Protection):

Where agricultural development will involve the construction of service roads and/or the clearance of natural vegetation for orchard development, a brush removal permit shall be required.

Policy 3-22 (Hillside and Watershed Protection):

Where agricultural development will involve the construction of service roads and the clearance of major vegetation for orchard development, cover cropping or any other comparable means of soil protection shall be utilized to minimize erosion until orchards are mature enough to form a vegetative canopy over the exposed earth.

Policy 7-29:

Visitor-serving commercial recreational development in rural areas should be limited to low intensity uses, i.e., campgrounds, that are designed to protect and enhance visual resources, and minimize impacts on topography, habitats, and water resources.

Policy 9-11:

Wastewater shall not be discharged into any wetland without a permit from the Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.

Policy 9-14:

New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a

reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

Policy 9-14:

All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

3. Existing IP/CZO Policies

Sec. 35-61. Development Standards: Beach Development.

1. To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the lot by the County.

Sec. 35-97.9. ESH Environmentally Sensitive Overlay District: Development Standards for Wetland Habitats (in relevant part).

1 All diking, dredging, and filling activities shall conform to the provisions of PRC §§ 30233 and 30607.1 of the Coastal Act. Presently permitted maintenance dredging, when consistent with these provisions and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat, shall be subject to the following conditions:

...b. Dredging shall be limited to the smallest area feasible.

c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials. During permitted dredging operations, dredge spoils may only be temporarily stored on existing dikes, or on designated spoil storage areas, except in the Atascadero Creek area (including San Jose and San Pedro Creeks) where spoils may be stored on existing storage areas as delineated on the Spoil Storage Map dated February 1981. (Projects which result in discharge of water into a wetland require a permit from the California Regional Water Quality Control Board.

2. Dredge spoils shall not be deposited permanently in areas subject to tidal influence or in areas where public access would be significantly adversely affected. When feasible, spoils should be deposited in the littoral drift, except when contaminants would adversely affect water quality or marine habitats, or on the beach.

3. Except in Ocean Beach County Park, boating shall be prohibited in all wetland areas except for research or maintenance purposes.

4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in paragraph 5 of this Section, below...

5. Light recreation such as bird-watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.

6. Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.

7. Wetland sandbars may be dredged, when permitted pursuant to paragraph 1 of this Section and when necessary for maintenance of tidal flow to ensure the continued biological productivity of the wetland.

8. No unauthorized vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses.

9. New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

10. Mosquito abatement practices shall be limited to the minimum necessary to protect health and prevent damage to natural resources. Spraying shall be avoided during nesting seasons to protect wildlife, especially the endangered light-footed clapper rail and Belding's savannah sparrow. Biological controls are encouraged.

11. No grazing or other agricultural uses shall be permitted in coastal wetlands except at the mouth of the Santa Maria River.

Sec. 35-97.15. ESH Environmentally Sensitive Overlay District: Development Standards for Rocky Points and Intertidal Habitats.

...3. Shoreline structures, including piers, groins, breakwaters, drainages, seawalls, and pipelines, should be sited or routed to avoid significant rocky points and intertidal areas.

Sec. 35-97.18. ESH Environmentally Sensitive Overlay District: Development Standards for Native Plant Community Habitats (in relevant part).

Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.

...2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

Sec. 35-97.19. ESH Environmentally Sensitive Overlay District: Development Standards for Stream Habitats.

1. The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the California Department of Fish and Game and California Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:

- a. Soil type and stability of stream corridors.**
- b. How surface water filters into the ground.**
- c. Slope of land on either side of the stream.**
- d. Location of the 100-year flood plain boundary.**

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.

2. No structures shall be located within the stream corridor except: public trails, dams for 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; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route location is feasible. All development shall incorporate the best mitigation measures feasible.

3. Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.

4. All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.

5. All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

6. Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.

4. General Discussion

The above Coastal Act policies, existing LUP policies, and implementation measures outline the County's program to abate hazards (e.g., flood, fire, erosion) and protect natural landforms, shoreline processes and water quality. The Toro Canyon Plan provides basic requirements for new development to implement fire protection measures. Fire hazard abatement policies were not modified, except as they relate to fuel modification. Suggested modifications pertaining to fuel modification are discussed in Section G.9, "Fuel Modification." The following sections address Flood Hazard, Shoreline Erosion and Protective Devices, Watershed Protection, and Water Quality.

5. Flood Hazard

Coastal Act Section 30250 provides a framework for new development to concentrate structures, minimize road lengths through site design, and avoid individual or cumulative impacts to coastal resources. Section 30253 provides that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Section 30236 allows for alterations to streambeds when required for flood control projects where no other feasible less damaging alternative is feasible and when necessary to protect public safety or existing development.

Four major creeks originate in the Santa Ynez Mountains and flow southward through the Toro Canyon Plan area: Picay Creek, Toro Creek (east and west branches), Garrapata Creek, and Arroyo Paredon Creek. Major flood control maintenance activities occur annually in these areas, including dredging of sediment and removal and spraying of creek vegetation. The purpose of annual maintenance is to remove obstructions that could either cause flooding, significant erosion, or plugging of downstream culverts and bridges. Many older developments lie within the 100-year

floodplain; however, new development is required to be at least two feet above the 100-year flood elevation.

The Flood Control District is authorized under Ordinance No. 3095 to determine appropriate standard for development subject to flooding within 50 feet of the top of bank of any watercourse. This document, however, is not a certified part of the LCP. Additionally, the implementation of flood control maintenance activities are predicated on the *Santa Barbara County Flood Control and Water Conservation District Annual Maintenance Plan*, which provides annual goals and projects to be carried out by the Flood Control District. Similarly, this document is not a certified part of the LCP.

The LUP contains the certified policy language that directs development in flood hazard areas. The intent is to avoid exposing new developments to flood hazards and to reduce the need for future flood control protection devices and resulting alteration of streams by regulating development within the 100-year floodplain. Hillside and Watershed Protection policies require areas subject to flood hazards to remain in open space and to provide suitable drainage.

The policies, development standards, and actions proposed in the Toro Canyon Plan are designed to minimize flood risk and erosion, prohibit new development from altering stream channels, and encourage restoration along creek banks. The proposed Toro Canyon Plan contains a number of policies which provide for the siting, design and construction of new development in a manner and/or location which minimizes risks from geologic, flood and fire hazard including a requirement that applications contain grading, drainage, and interim erosion control plans. Additional development standards provide for mitigation measures for development within flood hazard areas and adequate erosion and drainage control measures.

Policy FLD-TC-1 of the Toro Canyon Plan requires the minimization of flood risks through siting and land use controls, and engineering solutions for existing problems. The use of engineering solutions implies hardbank-type solutions. While Section 30236 of the Coastal Act allows for flood control projects when necessary to protect public safety or existing development, it also states that such projects shall be the least damaging alternative. The Commission finds that there may be less structural solutions and these types of alternatives should be carefully examined before contemplating a more permanent engineering solution. Therefore, the Commission finds it necessary to revise Policy FLD-TC-1, pursuant to LUP Modification 106, to specify that flood risks to life and property shall be minimized through appropriate sizing, design, siting, and land use controls, for new development. Existing problems would be addressed under separate new policy as described in LUP Modification 114 to require existing flood hazards to be addressed using the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and consider routine maintenance or other less intrusive solutions as a first priority over engineering structural solutions.

Development standards FLD-TC-1.1, FLD-TC-1.2, and FLD-TC-1.3 address siting and design constraints in floodways and floodplains. Under the Coastal Act, development must assure that it will not create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. DevStd FLD-TC-1.1 requires development to be sited outside of floodways except for when it is consistent with other, non-certified, chapters of the County code. As discussed previously (refer to Section C.5, "Implied Approvals") such non-certified materials may serve as additional guidance to decision-makers, but the certified language of the LCP overrides that guidance in the coastal zone so this text has been stricken. DevStd FLD-TC-1.2 addresses siting of development within specific floodplains. Development within floodprone areas such as floodways and floodplains increases risk from flood hazard. This is inconsistent with Coastal Act requirements. Therefore, these two provisions have been combined as provided in Suggested LUP Modifications 107 to prohibit structures in floodprone areas except where it is an otherwise approvable project and no alternative building sites exists on the property. Furthermore LUP Modification 107 requires mitigation measures that eliminate or minimize risks as a result of such development. Non-structural public access improvements such as trails and accessways would continue to be permissible within floodprone areas consistent with the other provisions of the LCP.

In conjunction with the modifications to FLD-TC-1.1, LUP Modification 108 deletes reference to the siting of development in floodplains which is now restricted under Modification 107. In addition, the "reasonable use" language is no longer necessary since development will be located outside of the floodplain to the maximum extent feasible. Furthermore, reference to removal of significant riparian and wetland vegetation has been deleted since these would be environmentally sensitive habitats under the Toro Canyon Plan and LCP. Therefore, development in the ESH or ESH buffer would not be allowed except as authorized under LUP Modifications 79 and 80. DevStd FLD-TC-1.2 prohibited development within the floodplains unless such development would accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. This language appears to give unlimited authorization for development for which there is inadequate information to assess the extent of impacts to coastal resources. Therefore, LUP Modification 108 deletes that language.

Additionally, LUP Modification 109 is necessary to ensure consistency with Coastal Act Section 30253 with regard to minimization of exposure to hazards. DevStd FLD-TC-1.3 requires development requiring raised finished floor elevations in areas prone to flooding to be constructed on raised foundations rather than fill material where feasible. However, since these types of engineering solutions are technically feasible, the language implies that this provision may not apply for other feasibility issues such as economics. Since it is technically feasible to avoid such hazards, LUP Modification 109 strikes the text "where feasible."

Action FLD-TC-2.4 provides standards for a comprehensive Master Drainage Plan in Toro Canyon such that drainage would be conveyed to the nearest drainage facility able to accommodate it, diversion of natural flow is avoided unless adequate facilities

exist, and the plan does not propose improvements that are inconsistent with modern floodplain management goals and environmental protection goals. While a Master Drainage Plan may be appropriate, it is not clear what is meant by modern floodplain and environmental protection "goals." This is a vague statement and is not specific as to the goals and standards by which future projects will be judged. Therefore, the Commission requires LUP Modification 120 to delete this reference. Furthermore, because actions implement policies, LUP Modification 119 provides a policy basis for the implementation of a Master Drainage Plan, for organizational consistency.

During the course of the Toro Canyon ESH review the County identified wetlands north of Padaro Lane, between the railroad tracks and the roadway, and along Santa Claus Lane (see Exhibit 6). These wetlands represent excavated drainages for the purpose of routing runoff downstream. These drainages were found to contain hydrophytic vegetation, thereby meeting the Commission's definition of wetland. The presence of these wetlands was confirmed in the field by Commission biologist, Dr. John Dixon. Dr. Dixon confirmed that these areas did meet wetland criteria but did not meet the definition of an environmentally sensitive habitat area. Therefore, the Commission requires these wetland areas to be mapped as "Wetland (Not ESH)" on the ESH Map as provided in LUP Modification 162 and IP Modification 167. See Section "Flood and Fire Hazard" for policy details on flood control issues.

Because these areas are not ESH, and they need to continue to convey floodwaters to protect existing structures from flood hazard, the Commission finds that it is appropriate to allow flood control activities which remove vegetation, debris, and sediment buildup in a manner that will not result in the enlargement, extension, or expansion of the existing drainage channels as prescribed in LUP Modification 75.

Land divisions may not be approved if the new parcels would not assure stability and structural integrity and create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area as required under Sections 30253 of the Coastal Act. A land division cannot be approved unless every new lot created would contain an identified building site that could later be developed consistent with all policies and standards of the LCP. Therefore, to ensure that minimize the amount of development subject to flood hazards, the Commission requires LUP Modification 124 to prohibits land divisions unless all proposed parcels can be demonstrated to be safe from flood hazards and that a safe, legal, all-weather access road can be constructed in conformance with all applicable policies of the LCP.

See Section G.9 "Stream Protection" for analysis of flood control related provisions that relate to stream alteration, erosion control, and restoration.

Based on the findings above, the Commission therefore finds that the proposed LUP amendments with regard to hazards as submitted are inconsistent with the requirements of Section 30253 of the Coastal Act unless modified as suggested above. Additionally, the proposed flood hazard implementation amendments are not consistent

with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

6. Shoreline Erosion and Protective Devices

The southern extent of the Toro Canyon Planning Area aligns the Pacific Ocean for approximately 2 miles, including bluff and beachfront lands, zoned for residential uses. Coastal erosion has affected this part of the coast and has prompted the private construction of protective structures along much of the shoreline. County policies require coastal bluff setbacks to accommodate 75 years of blufftop retreat. Existing shoreline protective devices, primarily rock revetments have had adverse visual consequences and have restricted lateral beach access to varying degrees.

Past Commission review of shoreline projects has shown that such development results in potential individual and cumulative adverse effects to coastal processes, shoreline sand supply, and public access. Shoreline development, if not properly designed to minimize such adverse effects, may result in encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with public access to and the ability to use public tideland areas. In order to accurately determine the adverse effects to coastal processes and public access which may result from proposed development, it is necessary to analyze the development in relation to characteristics of the project site shoreline, location of the development on the beach, and wave action.

One of the main functions of a shoreline protective device such as a seawall or revetment is the protection of the property or structures landward of the protective device. While they are often effective in protecting the landward development, however, they do nothing to protect the beach seaward of the revetment or seawall and can often have adverse effects on the nearby beach. These adverse effects ultimately cause additional adverse effects on the availability of public access to a beach. Scouring and beach erosion resulting from construction of a seawall or rock revetment will translate into a loss of beach sand at an accelerated rate. The resultant sand loss will be greater during high tide and winter season conditions than would otherwise occur if the beach were unaltered. In addition, as wave run-up strikes the face of the protective device and is deflected seaward, wave energy is concentrated at the face of the wall and ocean conditions along the beach will become more turbulent than would otherwise occur along an unarmored beach. The increase in turbulent ocean conditions along the beach will accelerate displacement of beach sand where the seawall is constructed over time.

The effects of shoreline protective devices on a beach has been documented in numerous past permit decisions by the Commission along the California shoreline. The Commission has found that one of the most critical factors controlling the impact of a shoreline protective device on the beach is its position relative to the surf zone. All other things being equal, the further seaward the wall is, the more often and more vigorously waves interact with it. The best place for a seawall or revetment, if one is necessary, is

at the back of the beach where it provides protection against the largest of storms. By contrast, a seawall constructed too near to the mean high tide line may constantly create problems related to frontal and end scour, as well as upcoast sand impoundment. Even though the precise impact of a structure on the beach is a persistent subject of debate within the discipline of coastal engineering, it is generally agreed that a shoreline protective device will affect the configuration of the shoreline and beach profile whether it is a vertical seawall or a rock revetment. It has been well documented by coastal engineers and coastal geologists that shoreline protective devices will adversely impact the shoreline as a result of beach scour, end scour (the beach area at either end of the structure), the retention of potential beach material behind the wall, the fixing of the back beach, and the interruption of longshore processes.

An additional concern relative to shoreline erosion is the phenomenon of sea level rise. There is a growing body of evidence that there has been a slight increase in global temperature and that an accelerated rate of sea level rise can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion in several ways and an increase in the average sea level will exacerbate shoreline erosion. For fixed structures on the shoreline, such as residences or protective devices, an increase in sea level will increase the extent and frequency of wave action and future inundation of the structure.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, ocean bottom depth controls nearshore wave heights, with bigger waves occurring in deeper water. A small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with a physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. An additional concern is that climatic changes associated with global warming and sea level rise could cause changes to storm patterns and wave activity for the entire coast. It is quite possible that some portions of the coast will experience more frequent storms. For these additional reasons to minimize future storm damage and to protect public access, it is important that new development along the shoreline, including shoreline protective devices, be located as far landward as feasible in order to minimize wave attack with higher wave forces as sea level rises over time.

Under the Coastal Act, development is required to be sited and designed to minimize risks, assure stability and structural integrity, and neither create nor contribute significantly to erosion or require the construction of protective devices that would substantially alter the natural landforms along bluffs and cliffs (Section 30253). Section 30235 of the Coastal 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.

The existing LCP provides three basic policies regarding shoreline protective devices. To avoid the need for future protective devices, permanent aboveground structures shall not be permitted on the dry sandy beach, and shall be set back a sufficient distance from the bluff edge to be safe from bluff erosion. Construction of revetments, seawalls, cliff retaining walls, pipelines or outfalls, and other such construction is limited to those designed to eliminate or mitigate adverse impacts on local shoreline sand supply and which will not block lateral beach access. Policy 3-1 provides that seawalls shall not be permitted unless the County has determined that there are no other less damaging alternatives reasonably available for protection of existing principal structures. Policies 3-2 and 3-3 regulate structures or development to eliminate or mitigate adverse impacts on local shoreline sand supply and maintain lateral public access.

The Toro Canyon Plan contains policies and development standards to avoid or minimize hazards from coastal processes. Policy GEO-TC-4 requires that all development on shoreline properties shall be designed to avoid or minimize hazards from coastal processes, to minimize erosion both on an off-site, and to avoid the need for any shoreline protection devices at any time during the lifetime of the development. This policy is implemented by three development standards. DevStd GEO-TC-4.1 calls for minimizing irrigation, use of culverts and drainpipes and use of sewers to the maximum extent feasible. DevStd GEO-TC-4.2 requires drainage to be conveyed away from bluff faces and into existing drainage courses to the maximum extent feasible, and siting drainage features to minimize physical and visual disruption of bluff and beach areas. DevStd GEO-TC-4.3 allows the construction of new shoreline protective devices when: (1) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan or (2) the device is proposed to fill a gap between existing shoreline protection devices, consistent with the height and seaward extent of the neighboring devices. DevStd GEO-TC-4.3 further allows for repair and maintenance, which they define as including replacement, of legal shoreline protective devices as long as it does not exceed the existing height or seaward extent.

DevStd GEO-TC-4.3 is not consistent with the Sections 30253 and 30235 in two ways: (1) it allows stringline infill of shoreline protective devices for new development and (2) it allows replacement of shoreline protective devices under the repair and maintenance provisions. Therefore, the Commission requires LUP Modification 134 to delete language suggesting that the replacement of a shoreline protective device is repair and maintenance and to allow shoreline and bluff protection structures when needed to protect existing structures that were legally constructed prior to the effective date of the certification of the LCP and only when it can be demonstrated that said existing structures are at risk from identified hazards, that the proposed protective device is the least environmentally damaging alternative and is designed to eliminate or mitigate adverse impacts to local shoreline sand supply. Alternatives analysis shall include the relocation of existing development landward as well as the removal of portions of existing development. "Existing development" for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second

residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping, among others.

Furthermore, the Commission has found in past actions that there are a number of ways to site and design shoreline protective devices to specifically address the problems and issues associated with shoreline erosion and the construction of protective devices on a beach. To ensure consistency with Section 30253 and 30235 to minimize the need for and construction of shoreline protective devices and eliminate or mitigate associated risks and impacts to landforms, access, and shoreline sand supply, several additional policies have been suggested below to address siting, design, and need for shoreline protective devices.

LUP Modification 135 prohibits the use of shoreline protective devices for new development except when necessary to protect a new septic system and there is no other feasible alternative. Suggested Modifications 136 and 137 require that siting and design of new shoreline development including protective devices take into account anticipated future changes in sea level, and that new development on a beach or bluff be sited outside areas subject to hazards during the projected 100 year economic life of the development and/or be elevated above the base flood elevation and set back as far landward as possible.

Additionally LUP Modifications 138, 139, 140, and 141, provide that new development, including land divisions, new beachfront and blufftop structures, significant additions, accessory structures, and septic systems be sited and designed to minimize risks from wave hazards and to avoid the need to construct a protective device for the life of the development. Shoreline protection structures shall not be permitted for the sole purpose of protecting access structures as provide in LUP Modification 142. When it is determined that a shoreline protective device is necessary, the LUP Modification 143 requires that it be constructed as far landward as feasible, but, in no circumstance, further seaward than a stringline drawn between the nearest adjacent corners of protective devices on adjacent lots. LUP Modification 144 states that a "vertical" seawall shall be the preferred means of protection for existing structures built at sand level. Rock revetments may be allowed when constructed underneath existing foundations or determined to be the preferred alternative.

Due to the extreme hazards associated with development on a beach or coastal bluff, LUP Modifications 145 and 146 require property owners, as a condition of coastal development permits, to acknowledge and assume such risks and to waive any future claims against the permitting agency; and to acknowledge that future repairs or additions to a shoreline protective device shall not extend the footprint seaward. In certain circumstances, where geologic and engineering evaluations conclude that development can be sited and designed to not require a shoreline protective device, LUP Modification 147 requires property owners to waive any future rights to construct such device.

Based on the findings above, the Commission therefore finds that the proposed LUP amendments with regard to shoreline protection policies as submitted are inconsistent with the requirements of Section 30253 and 30235 of the Coastal Act unless modified as suggested above. Additionally, the proposed shoreline protection implementation amendments are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

7. Watershed Protection

Protection of coastal watersheds is a primary objective of the Coastal Act. Numerous sections of the Act require protection of coastal resources which are contained within such watersheds: Section 30230 and Section 30231 requires maintenance and restoration of marine resources and biological productivity of all coastal waters including streams, wetlands estuaries and lakes; Section 30253 requires that development not contribute significantly to erosion; Section 30251 requires protection of visual resource and minimization of landform alteration; Section 30233 provides for only limited development within wetlands and then only under specific environmental constraints; Section 30236 limits development within streams; Section 30241, 30242 and 30243 require protection of agricultural soils and productivity; and Section 30250 requires that development be concentrated and in a manner that does not create significant adverse impacts either individually or cumulatively on coastal resources.

The certified LCP contains general policies addressing geology, hillsides, and topography. Hillside and Watershed Protection policies are intended to guide development on hillsides and within watersheds, and require minimizing cut and fill, fitting development to the site's topography, soils, geology, hydrology and other natural features, and specifying techniques for minimizing the effects of necessary grading. Additional policies require applications for grading permits and subdivision requests that are subject to geologic hazard setbacks from potentially active, historically active, or active faults.

Within the Toro Canyon Plan Area, the resources (high quality alluvial soils supporting highly productive agriculture; a watershed characterized predominantly by steep foothills protected by a large expanse of highly adapted chaparral vegetation; expansive coastal views of the foothills) are particularly sensitive to agricultural activities; and the agricultural activities which do occur (especially foothill orchards and greenhouse developments) have the potential to have extremely adverse effects on these critical resources. Agricultural soil and conservation practices have not been as effective as possible in minimizing erosion of cultivate soils and natural creek banks. Irrigation and grading practices have resulted in substantial erosion of both upper and lower valley soils with resultant adverse impacts on agricultural productivity.

Failure to minimize watershed erosion results in the annual deposition of excessive amounts of sediment in downstream areas. This is especially important since erosion rates within the upper watershed have a direct relationship to the scope and frequency of flood projects. Given the invasive methods of flood control maintenance relied upon in the creek corridors, it is particularly important to ensure that future development does

not lead to greater rates of soil erosion and sedimentation that would reduce the channel's capacity to convey storm flows. Site preparation for agriculture or residential development on relatively steep slopes would require removal of native ground cover, grading for building pads, and access road construction. These land modifications would increase the potential for runoff during the rainy season and from irrigation. The runoff would contribute to storm flows and potential for inundating floodplains downstream on Toro and Arroyo Paredon Creeks. The consequences of increased development in the steeper reaches therefore increase the potential for flooding in low-lying areas adjacent to downstream properties. This may increase the need for flood control activities or improvements, further impacting the downstream environment.

The rapid expansion of the avocado market, much of which has occurred since the certification of the existing LCP, increased the profitability of avocado production to an extent where steeper and steeper foothill areas became economically feasible to cultivate. The cutting of hillside agricultural service roads and stripping of hills of the chaparral vegetation, which is highly specialized in its ability to stabilize steep slopes, are increasing rates of soil erosion.

Excessive erosion of the upper watershed areas is also highly destructive of agricultural activities in the lower floodplain areas. Flood flow depositions of sediment can cause considerable damage to agricultural crops, at considerable expense.

The Final Environmental Impact Report (Santa Barbara County, 2002) prepared for this project reports that some recent projects have revealed that current land use and zoning designations allow the potential for inappropriate development in constrained areas. Steep slopes, poor soils, inadequate sewer service, sensitive habitats, high fire potential, and narrow winding roads are serious development constraints. No area-specific guidelines that address these concerns exist. One objective of the Toro Canyon Plan land use and zoning designation review was to decrease the potential for water pollution, loss of sensitive habitat, loss of roads and homes located on severely eroding hillsides, injury due to road conditions, and loss of life or significant amounts of property in the event of a fire. The Plan proposes to preserve the rural character and natural scenic beauty of Toro Canyon.

Watershed planning is a complex, multi-faceted planning approach that encompasses a number of resources issues, such as geologic hazards, erosion, water quality, visual resources, and native vegetative cover. While the LCP and Toro Canyon Plan contain policies and actions on those topics intended to meet the requirements of the Act, they do not provide the level of specificity required to adequately implement Coastal Act Sections 30230, 30231, 30241, 30242, 30243, 30250, 30251 within Toro Canyon given the specific sensitivity and resource constraints. The Commission is therefore recommending the changes below, which strengthen the Plan's basic approach.

Many watershed resource issues overlap with other sections of this staff report. Therefore, the following analysis does not represent an exhaustive examination of watershed-related policies and standards, but rather focuses on the key resource

constraints such as steep slopes. For organizational purposes, the watershed planning recommendations are divided into Land Use and Density, Siting and Design, and Management Measures followed by description of the implementation. Because of the importance of watershed planning, especially given the rural nature of the Toro Canyon Planning Area, and the need to represent the Plan more accurately, LUP Modification 125 serves to include "Watersheds" in the headings of "Geology, Hillside, and Topography."

Land Use and Density

As stated previously, Toro Canyon is mostly rural, consisting primarily of agricultural lands with some rural residential intermixed. Residences in existing Rural Neighborhoods are mostly custom homes, with a few tract homes on some of the smaller lots. It is notable however, from a watershed planning perspective, that residential building trends involve new custom homes with structures far larger than existing homes, from 5,000 to as large as 20,000 square feet. The Plan area also contains three small commercial areas along Highway 101.

At the most basic level, watershed planning begins with avoidance of resource impacts by locating the types of land uses and densities through Land Use Designations and Zoning. The Toro Canyon Plan proposes to modify land use designations and associated zoning in a manner that would reduce potential development density and the community's ultimate buildout potential.

The Toro Canyon Plan rezones some residential areas with significant development constraints to larger minimum parcel sizes. Many of these areas are characterized by limited public road access to parcels, narrow winding roads, steep slopes, poor soils, lack of public sewers, high fire hazard with poor excavation routes, and larger amounts of sensitive habitats including major creeks. For these reasons, limiting additional development density in these areas would reduce overall watershed impacts. The Plan also downzones a majority of the agricultural parcels to larger minimum lot sizes. However, this has more impact on long-term agricultural productivity rather than watershed impacts (though it does reduce the potential for agricultural residential buildout), since the extent of agricultural roads and cultivation is not dependent upon parcel size.

The Plan includes another significant shift in land use density by redesignating / rezoning foothill lands from Agriculture to Mountainous Area (MA) in order to balance resource protection with agricultural expansion in areas with limited access, steep slopes, poor soils, high fire hazards, and large areas of sensitive habitat. The MA designation allows agricultural uses, but includes greater protection of natural resources. The Mountainous designation is intended to protect lands unsuited for intensive development. Combined with the reduction in density of residential parcels, these changes would reduce the total potential density of future development that could occur within the Plan area.

Land divisions may not be approved if they would result in adverse impacts on coastal resources, such as water quality, wetlands and ESHA; contribute significantly to erosion; or would minimize risks to life and property, which are protected under Sections 30230, 30231, 30233, 30240, and 30253 of the Coastal Act. A land division cannot be approved unless every new lot created would contain an identified building site that can later be developed consistent with all policies and standards of the LCP. Therefore, the Commission finds that LUP Modifications 129 and 130 are necessary to prohibit land divisions, including lot line adjustments, unless all proposed parcels are demonstrated to be safe from erosion and geologic hazards; building pads, access roads, or driveways would not be located on slopes of 30%; and future development would not require grading on slopes of 30%.

Siting and Design

Where development is unavoidable in constrained areas, the siting and design of development should avoid, where feasible, and minimize individual and cumulative impacts to watershed resources. Siting and design of new development is particularly important in Toro Canyon where much of the watershed is unsuited for intensive development, due to areas of steep topography, high potential for landslides and erosion, and significant biological communities. Such design considerations would be necessary to avoid exacerbating erosion and hillside scarring.

Coastal Act Section 30250 provides a framework for new development to concentrate structures, minimize road lengths through site design, and avoid individual or cumulative impacts to coastal resources. The Toro Canyon Plan proposes policies and development standards to limit development on slopes greater than 20 percent, to minimize grading, to avoid siting development near active and potentially active faults, to require revegetation of graded areas and appropriate drainage design. An additional measure limits grading for access roads to less than 50 cubic yards without a grading permit.

Four general suggested modifications encourage site, scale, and design of new development consistent with the requirements of Section 30250 and the specific resource protection policies. LUP Modification 4 provides that, in addition to the requirements of LUP Policy 2-11, all development, including agriculture, shall be scaled to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of driveways; number of accessory structures; size of development envelopes; amount and location of grading; vegetation removal; and night lighting. LUP Modification 101 requires new development to be sited and designed to concentrate development in existing developed areas, minimize road lengths and driveways, and reduce fuel modification to the maximum extent feasible to minimize impacts to native habitat, areas of steep slopes, and/or highly erosive/sandy soils. LUP Modification 128 requires new development to be sited and designed to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation,

reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.

Suggested Modification 57 provides that development shall be sited on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources by providing for the following: (a) Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss; (b) Analyzing the natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development; (c) Preserving and protecting riparian corridors, wetlands, and buffer zones; (d) Minimizing disturbance of natural areas, including vegetation, significant trees, native vegetation, and root structures; (e) Ensuring adequate setbacks from creeks, wetlands, and other environmentally sensitive habitat areas; (f) Promoting clustering of development on the most suitable portions of a site by taking into account geologic constraints, sensitive resources, and natural drainage features; and (g) Utilizing design features that meet water quality goals established in site design policies

In addition to the general siting and design guidelines provided in the above suggested modifications, specific siting and design guidelines are provided in relation to geologic hazard constraints and significant biological communities.

Geologic hazards which may affect, and may be caused by, new development include landslides, soil creep, accelerated erosion, and increased sedimentation. These problems are generally related to development in steeply sloping foothill areas. The main areas of steep slopes (>30%) within the coastal zone are located north of Foothill Road (Exhibit 9). Given the low density of development in the steep foothill areas, existing structures have largely avoided severe geologic problems. There are foothill areas where severe slope stability problems have occurred.

The hazards policies and standards in the Toro Canyon Plan are intended to ensure that all new development minimizes risks to life and property in areas of high geologic, flood, and fire hazards. To implement the LUP, suggested modification 171 includes development standards, permit application requirements and other measures to ensure that permitted development is sited and designed to assure stability and structural integrity, and neither create nor contribute to erosion, geologic instability, or destruction of the site or surrounding area.

Steep slopes and unstable soils characterize the Toro Canyon area. As a result, land use practices such as agriculture on steep slopes has had adverse watershed impacts. As reported in the Final EIR (Santa Barbara County, 2002):

As crop values have risen, increased agricultural development has occurred on steeper slopes and canyon hillsides. While most agriculture is well planned and installed, in some cases, poorly planned and executed foothill grading for crops and access roads has caused landslides, visual

degradation, habitat loss, significant erosion, and downstream sedimentation in creeks. In addition, once agricultural roads are in place, some property owners follow with additional grading for residential development, including driveways, building pads, yard areas, etc. Much of this has led to significant scarring of the terrain and ongoing erosion problems.

To protect watershed resources that are adversely harmed as a result of the removal of native vegetative cover for new agriculture on steep slopes, the Commission requires LUP Modification 105 to prohibit the conversion of vacant land on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use. Existing, legally established agricultural uses shall be allowed to continue. Similarly, DevStd GEO-TC-1.1 of the Toro Canyon Plan addresses development on slopes greater than 20%. In areas of unstable soils, highly erosive soils, or on slopes between 20% and 30%, development shall not be allowed unless an evaluation by a qualified professional (e.g., soils engineer, geologist, etc.) establishes that the proposed project will not result in unstable slopes or severe erosion. LUP Modification 127 prohibits grading and/or development-related vegetation clearance where the slope exceeds 30 percent, with certain exceptions for driveways and utilities. LUP Modification 126 modifies DevStd GEO-TC-1.1 to reference the Watershed Protection Overlay District, pursuant to IP Modification 171, which implements these watershed protections standards.

Approximately 1,550 acres of the Toro Canyon Plan Area is chaparral high in the watershed's mountainous area. As reported by the Final EIR (Santa Barbara County, 2002):

Depending upon parcel sizes, the potential disturbance area for a main house, guest house, driveways, landscaping, and orchards can range from 1 to 10 acres per parcel. Using an average of 5 acres of disturbance per unit, and given the data described in the paragraph above, 124 units could fragment 620 acres of open land. This is expected to include elimination of oak riparian forest, oak forest and woodland, scrub oak chaparral, chaparral, and coastal sage scrub. Elimination of grassland is not included in these totals. Direct removal of habitat as well as fragmentation of the remaining habitat would be a significant impact.

This could degrade the ability to support wildlife, including sensitive species described above. Fragmentation could occur in all of these habitats. This fragmentation would reduce the potential for survival of native species that rely on large areas for nesting or foraging. Human encroachment into these areas would introduce noise, lighting, litter, and predation by domestic animals that would disrupt, and in some cases eliminate, native animals. Changes in the faunal community could result if species unable to tolerate these human disturbances would abandon the immediate area. This could have a secondary effect on raptor occurrence within the area.

Policy BIO-TC-12 of the Toro Canyon Plan provides that significant biological communities not designated ESH should not be fragmented by development into small,

non-viable areas. This would in large part, encompass the chaparral habitat which is a significant, relatively undisturbed biological community.

Management Measures

Where development in constrained areas cannot avoid watershed impacts through siting and design, then short-term construction-related impacts and impacts associated with long-term use of such areas must be managed to mitigate erosion, sedimentation, and adverse effects on water quality and other downstream coastal resources. Marine resources, biological productivity and coastal water quality benefit the most from these types of specific project-level management measures.

Landform alteration from new development may impact the quality of surface waters through such means as reducing the area of pervious surfaces and altering natural drainage, filtration, and infiltration patterns. Grading and filling natural hydrologic features raises significant water quality issues, including the loss of the natural water filtration mechanisms that provide water quality, quantity, and conveyance benefits to the coastal environment. To ensure coastal resource protection consistent with Section 30230 and 30231, the Commission finds that the following suggested modifications are required.

LUP Modification 65 requires measures to be taken during construction to limit land disturbance activities such as clearing and grading, limiting cut-and-fill to reduce erosion and sediment loss. This modification further requires avoidance of steep slopes, unstable areas, and erosive soils. Construction must also minimize disturbance of natural vegetation, including significant trees, native vegetation, root structures, and other physical or biological features important for preventing erosion or sedimentation. LUP Modification 64 requires development to minimize erosion, sedimentation, and the introduction of pollutants from construction-related activities to the maximum extent feasible. Applicants shall develop construction-phase erosion control and polluted runoff control plans and incorporate appropriate BMPs to meet the requirements.

LUP Modification 117 modifies DevStd FLD-TC-2.1 to incorporate Best Management Practices (BMPs) that would minimize the erosion of soils into natural and manmade drainages, where feasible. This may include, but is not limited to, sedimentation traps. Additionally, DevStd FLD-TC-2.2 requires grading and drainage plans to be submitted with any application that would increase total runoff from the site or substantially alter drainage patterns on the site or in the vicinity. However, the Commission recognizes that new development has the potential to adversely impact water quality for reasons other than an increase in site runoff. The introduction of common chemicals and pollutants to site runoff, even if at pre-development rates, would not be adverse to downstream waters and/or habitats. Therefore, LUP Modification 118 requires grading, drainage, and interim erosion control plans to be submitted with all application for development. Drainage and interim erosion control plans are essential to the protection of water quality.

Action FLD-TC-2.4 provides that a Master Drainage Plan may be developed for Toro Canyon which would generally address drainage conveyance. However, there is no hierarchical policy basis for such a plan. Therefore, the Commission is requiring LUP Modification 119 to add a policy that states preparation of a Master Drainage Plan may be undertaken subject to all of the provisions of the Toro Canyon Plan and certified LCP. This type of comprehensive plan has the potential to provide a net benefit to resources through its planning efforts.

Addressing Sections 30230, 30231, 30236, 30240, and 30250 of the Coastal Act, LUP Modification 131 regulates the development of new roads, bridges, culverts, and outfalls so that they do not cause or contribute to streambank or hillside erosion or creek or wetland siltation. This includes BMPs to minimize impacts to water quality such as construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings, including replacement of an existing stream crossing, must be bridged. Where space is available, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.

The County has found that pre-permitting investigations for residential development have contributed to geologic scarring and increased erosion in the Plan area. Creation of access roads for truck-mounted mechanical augers and/or backhoes used for geologic hazards, soils, septic systems, or other investigations related to residential development has altered topography and resulted in geologic scarring. These investigations include earth moving activities that have resulted in clearing of vegetation and increased soil exposure to wind and water erosion. Since these investigations occur prior to permit approval, there are currently no enforceable restrictions on these activities. LUP Modification 132 restates Action GEO-TC-4 to require a coastal development permit for roadways constructed to provide access for geologic, geotechnical, and septic system testing that require grading of greater than 50 cubic yards, subject to all other applicable County provisions.

Implementation

The comprehensive nature of watershed planning necessarily incorporates a number of separate resource issues, including protection of water quality, native cover and biological productivity, ESH, and geologic hazards. As a result of this cross-resource planning, clear implementation and its contribution to the overall Toro Canyon Plan watershed planning effort is essential. Though the protection of watershed resources cannot be reduced to just one issue, land use constraints hinge, in large part, on topographic constraints. Lands particularly unsuited for intensive development include lands that have steep slopes 30 percent or greater. This percentage is emphasized in the Toro Canyon Plan area by the existing line of agricultural development. Though some agriculture has occurred on slopes 30% or greater, areas with 30% or steeper slopes, zoned for agriculture, primarily remain vacant. In most of Toro Canyon, these steep agricultural areas transition into the large expanse of highly adapted native chaparral still evident along Paredon Ridge.

To protect watershed functions and rural character, the Commission requires the incorporation of a Watershed Protection Overlay, pursuant to IP Modification 171, within the Toro Canyon Plan area where land use intensification, including removal of native vegetation and grading for new development, in areas of steep slopes contribute to increased surface runoff, erosion, downstream siltation, and hillside scarring. Specifically, the area to be included in the WTR Overlay District shall include all lands within the coastal zone portion of the Toro Canyon Planning Area having slopes 30% or greater as described in LUP Modification 159 and IP Modification 170.

The WTR Overlay District supplements the development standards of the Toro Canyon Plan through illustration of constrained areas and through clarifying implementation measures. The intent of this overlay district is to ensure that all development in such areas is designed and carried out in a manner that (1) provides maximum protection to coastal waters and downstream properties; (2) preserves rural character and public views; and (3) limits development in areas constrained by lack of adequate services and access, and geologic and fire hazards.

The WTR Overlay requires additional application requirements to adequately describe the project in relation to applicable development constraints. Supplemental application requirements include a delineation of any disturbed areas on the parcel and evidence of previous permit or evidence showing no authorization was necessary for the disturbance. The application must also be accompanied by a water quality management plan and fuel modification for these sensitive areas. Water quality management plans must be designed to minimize the introduction of pollutants to surface waters, groundwater, and/or other coastal water body.

Supplemental findings are required to ensure that the proposed development meets all applicable development standards detailed within the Overlay District, including use of property, slopes, development areas, siting and design, water quality management plans, confined animal facilities, historic use and disturbance of property, and land divisions. The Overlay District also provides additional application requirements and finding for approvals of Conditional Use Permits (CUPs). These provisions are described below.

The uses of the property and the siting, design, and size of any development approved on parcels within this district, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. This includes the prohibition of development on 30% slopes, or greater, to the maximum extent feasible, and a formal determination by a qualified professional that development on slopes between 20% and 30% will not result in unstable slopes or severe erosion.

Where all feasible building sites are constrained by steep slopes, the County may only permit development where all siting, design, and other provisions of the WTR Overlay District are met. In no case shall the approved development exceed the maximum development area as described in Section 35-102G.17. The maximum allowable

development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas exceeding 30% slope are within this District shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required. Additionally, driveways and/or utilities may be located on slopes 30% or greater where there is no less environmentally damaging feasible alternative means of providing access to a building site.

New development must be sited and designed to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody. Confined animal facilities are prohibited on all slopes 30% or greater.

Any disturbed area where previous permits or other historic evidence cannot be provided to indicate that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County Planning and Development review shall assume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after-the-fact coastal development permit is issued consistent with all current standards under the provisions of this Article. The County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.

Furthermore, land divisions that would result in building pads, access roads, or driveways located on slopes of 30% or greater, or result in grading on slopes 30% or greater shall be prohibited. All land divisions shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.

The WTR Overlay District further provides that a coastal development permit may include conditions that are necessary to ensure protection of watershed function, rural character, and land unsuited for development. Such conditions may limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, require the alteration of the design of the development to ensure protection of the habitat, or require any other condition deemed necessary for protection of coastal resources by the approving body.

Based on the findings above, the Commission therefore finds that the proposed LUP amendments with regard to watershed protection as submitted are inconsistent with the requirements of Sections 30230, 30231, 30233, 30240, 30250 and 30253 of the Coastal Act unless modified as suggested above. Additionally, the proposed watershed protection implementation amendments are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

8. Water Quality

Toro Canyon lies within the Toro Creek and Arroyo Paredon Creek Watersheds. Numerous coastal creeks drain from these watersheds into the Pacific Ocean and Santa Barbara Channel, where valuable coastal resources and popular public recreation areas and activities exist. Maintaining and restoring water quality throughout the Toro Canyon watersheds is necessary to protect the sensitive coastal resources and public amenities that exist in these areas.

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with the State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the January 2000 *Plan for California's Nonpoint Source Pollution Control Program* (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices are best implemented at the local planning level, since they can be most cost effective during the design stage of development.

The Commission and the Central Coast Regional Water Quality Control Board (CCRWQCB) are both working to protect water quality in the Santa Barbara area, although each has different authorities and responsibilities in that effort. The Commission has primary responsibility for protecting coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through writing discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards and taking enforcement actions where standards are violated. Given the common goal of clean coastal water quality, there is a gray zone where the authorities of these agencies overlap. For example, based on the need to regulate land use in order to protect water quality, the CCRWQCB has provided guidance and requirements in its Phase II National Pollutant Discharge Elimination System (NPDES) Permit for land use development that may impact water quality. The Toro Canyon Plan reflects these guidance and requirements with some modifications due to the site-specific conditions in Toro Canyon, the additional requirements of the Coastal Act and comments of interested parties including the County of Santa Barbara.

The County of Santa Barbara has submitted a Draft Storm Water Management Program (SWMP) to the CCRWQCB to meet the Phase II NPDES requirements. This SWMP is a comprehensive program addressing the impacts of stormwater and polluted runoff on water quality, and identifying measures and activities to reduce these impacts. The policies, development standards and actions in the Toro Canyon Plan reflect the SWMP where applicable. The Santa Barbara SWMP can be found at www.countyofsb.org/project_cleanwater.

The Commission recognizes that new development in the County of Santa Barbara and especially the Toro Canyon area has the potential to adversely impact coastal water

quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

New development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. The reduction in permeable surface therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation.

Further, pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;

- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health.

The goal of the Toro Canyon Plan water quality policies is to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore natural drainages, wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including nonpoint source pollution, into the County's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and County services.

The Toro Canyon Plan contains several policies to meet the goal of protecting and enhancing water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The majority of these policies are contained under the heading Wastewater, Water, and Water Quality, renamed in suggested modification 36, although there are also water quality policies within the Biological Resources, Flooding and Drainage, and Geology, Hillside and Topography sections. The main goals of pollution prevention and elimination, the protection of pristine waters, and the restoration of impaired waters are reflected in suggested modifications 46 and 47.

As mentioned above, wastewater discharge has the potential to contribute pollutants to runoff. Several policies relating to wastewater have been modified or added to the existing policies. These include suggested modifications 39, 40, 43, and 44, and incorporate siting, design, installation, operation and maintenance requirements to reduce impacts to water quality, and special wastewater protection for beachfront development, as this land use has a higher potential to impact water quality due to its proximity to coastal waters. Development including confined animal facilities is also required to protect water quality through siting, design, management and maintenance requirements, as this land use has the potential to contribute pollutants such as nutrients and pathogens to coastal waters. These requirements are reflected in suggested modifications 42 and 45. There are also policies that require landscaping practices and vegetation maintenance activities to minimize erosion and sedimentation, minimize the use of nutrients, pesticides and other chemicals and use efficient irrigation

practices, as these types of activities are known to generate pollutants such as fertilizers, pesticides, nutrients, sediment and increased runoff. Suggested modifications 67, 85, 86, and 87 include policies related to landscaping and vegetation maintenance practices. There are other types of development and land use activities that are known to generate high numbers or concentrations of pollutants and pose a threat to water quality. These types of development include roads, bridges, parking lots, commercial development, restaurants, gasoline stations, car washes, automotive repair facilities, beachfront development and development on steep slopes, and policies have been added to address the water quality impacts from these developments in suggested modifications 131, 58, 59, 60, 61, 63, 133, and 62.

Several policies have been modified or added to provide specifically for the requirement of Best Management Practices (BMPs) related to siting and design of the project, the construction phase of the project, and the post-construction phase of the project. These policies include the requirement of Erosion and Sediment Control Plans and Storm Water Quality Management Plans, as specified in suggested modifications 66, 48, and 171. These plans must specify the BMPs that will be implemented (both temporary and permanent) to protect water quality, as required by modification 172.

Development during the construction phase has the potential to contribute pollutants through erosion and sedimentation and through discharge of construction materials or chemicals. Therefore, suggested modifications 64, 65, and 117 require that construction phase development minimize erosion and sedimentation, minimize the introduction of pollutants, limit land disturbance activities such as clearing and grading, minimize disturbance of natural vegetation, limit cut-and-fill to reduce erosion and sediment loss, avoid steep slopes, unstable areas, and erosive soils, and incorporate other BMPs as necessary to minimize erosion and sedimentation. Suggested modification 118 requires that all development submit grading plans that specify temporary and permanent BMPs to minimize erosion and sedimentation.

As discussed above, development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land and results in an increase in the volume and velocity of stormwater runoff, modification to stream morphology and increased erosion and sedimentation. Policies have been modified or added to the Toro Canyon Plan, including suggested modifications 52, 53, 54, 55, and 56, that require the preservation or restoration of natural hydrologic conditions. This can be achieved by measures such as promoting infiltration, minimizing impervious surfaces, and protecting the absorption, purification, and retention functions of natural drainage systems by designing the drainage plan to complement and utilize existing drainage patterns and systems, and conveying drainage from the developed area of the site in a non-erosive manner. Suggested modification 120 requires the diversion of natural flow to be avoided in order to preserve the natural hydrologic conditions and avoid impacts to water quality. In addition, suggested modification 57 requires development to be sited on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources by providing for the following:

- Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss;
- Analyzing the natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development;
- Preserving and protecting riparian corridors, wetlands, and buffer zones;
- Minimizing disturbance of natural areas, including vegetation, significant trees, native vegetation, and root structures;
- Ensuring adequate setbacks from creeks, wetlands, and other environmentally sensitive habitat areas.

These measures discussed above are all types of site design BMPs. In addition to site design BMPs, source control BMPs are also required to be implemented in the project design, as specified in suggested modification 49. Structural treatment control BMPs are required for all residential development 1 acre or greater in disturbance and all commercial, industrial, and transportation/vehicle development 0.5 acres or greater in disturbance. In addition, in some instances the implementation of site design and source control BMPs alone will not be sufficient to protect water quality as required by the Toro Canyon Plan, LCP or Coastal Act. Therefore, when necessary to protect water quality, structural treatment BMPs will be required along with site design and source control measures. These requirements are incorporated in suggested modification 49.

The Commission finds that designing BMPs to accommodate (infiltrate, filter or treat) the runoff from the more frequent storms, rather than for the largest infrequent storms, results in improved BMP performance. In similar areas of the coast, the Commission has previously required structural BMPs to accommodate (infiltrate, filter or treat) the amount of stormwater produced by all storms up to and including the 85th percentile, 24 hour storm event. The County of Santa Barbara has adopted standards that include sizing criteria for volume-based and flow rate-based structural treatment control BMPs, as described below in an excerpt from the Santa Barbara County Draft Storm Water Management Program.

These standard conditions will be required on all new or redevelopment projects that are one acre or larger in size for residential development, or 0.5 acre or larger in size for commercial, industrial, and transportation/vehicle development. The conditions require treatment control BMPs be installed to accommodate rainfall events up to 1.2 inches in volume, or 0.3 inches per hour. Events or flows greater than this would be by-passed. This sizing criterion is based on storm event analysis and continuous rainfall/runoff simulation (SYNOP and SWMM) on rainfall data from 1948 to 1999.

The criteria for Santa Barbara County did not analyze 24-hour storms as this typically truncates many storm events artificially (i.e., storm events often begin and end before and after midnight, respectively) and is not how storm events actually occur. The approach used to obtain the 1.2 inch sizing criteria was based on the U.S. EPA statistical rainfall analysis program SYNOP, which was used to convert the hourly rainfall data to individual storm events with inter-event mean times (the dry period used to separate and aggregate hours of rainfall into "events") of 6 hours or greater and total rainfall depth of 0.1 inches or greater (storms less than 0.1 inch were omitted because they do not typically generate creek flows or significant runoff). Thus, these values provide a more accurate value than the 85th percentile value commonly used in other communities (if converted to a percentile approach, these values represent a range between the 70th to 90th percentile, depending on where in the County rainfall is measured).

Based on the discussion above, the Commission finds that the County design criteria standards provide equivalent water quality protection as the 85th percentile design standard. Therefore, the Commission requires, through suggested modification 50, that the post-construction structural treatment control BMPs that are required be designed and installed according to County Flood Control District and County Water Agency standards and guidelines, including accommodating, at a minimum, rainfall events up to 1.2 inches in volume or 0.3 inches per hour. In addition, structural BMPs shall be inspected, cleaned, and repaired as necessary to ensure proper functioning for the life of the development, and permits for development shall be conditioned to require ongoing application and maintenance as is necessary for effective operation of all BMPs (including site design, source control, and treatment control), as required in suggested modification 51.

These policies contained in the Toro Canyon Plan provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Therefore, the Commission finds that the Toro Canyon Plan meets the requirements of and is in conformity with Section 30231 of the Coastal Act.

F. AGRICULTURE

1. Coastal Act Policies

Section 30113 of the Coastal Act defines "prime agricultural land" as:

...those lands defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.

Section 51201(c) states in relevant part:

"Prime agricultural land" means any of the following:

All land that qualifies for rating as class I or class II in the Natural Resources Conservation Service land use capability classifications.

Land which qualifies for rating 80 through 100 in the Storie Index Rating.

Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

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 return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

Section 30241 of the Coastal Act states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30241.5 of the Coastal Act states:

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but

not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:

(1) 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 a proposed local coastal program or an amendment to any local coastal program.

(2) 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 a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, "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 local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242 of the Coastal Act states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (i) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250 such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30243 of the Coastal Act states:

The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

2. Existing LUP Policies

Policy 2-11:

All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

Policy 3-20:

All development within the coastal zone shall be subject to the slope density curve (Plate A) of the County Zoning Ordinance No. 661 (Article VII, Section 20). However, in no case shall above-ground structures, except for necessary utility lines and fences for agricultural purposes, be sited on undisturbed slopes exceeding 40 percent.

Policy 3-21:

Where agricultural development will involve construction of service roads and/or the clearance of natural vegetation for orchard development, a brush removal permit shall be required.

Policy 3-22:

Where agricultural development will involve the construction of service roads and the clearance of major vegetation for orchard development, cover cropping or any other comparable means of soil protection shall be utilized to minimize erosion until orchards are mature enough to form a vegetative canopy over the exposed earth.

Policy 8-2:

If a parcel is designated for agricultural use and is located in a rural area not contiguous with the urban/rural boundary, rezoning to a non-agricultural zone district shall not be permitted unless such conversion of the entire parcel would allow for another priority use under the Coastal Act, e.g., coastal dependent industry, recreation and access, or protection of an environmentally sensitive habitat. Such conversion shall not be in conflict with contiguous agricultural operations in the area, and shall be consistent with Section 30241 and 30242 of the Coastal Act.

Policy 8-3:

If a parcel is designated for agricultural use and is located in a rural area contiguous with the urban/rural boundary, conversion shall not be permitted unless:

- a. The agricultural use of the land is severely impaired because of physical factors (e.g., high water table), topographical constraints, or urban conflicts (e.g., surrounded by urban uses which inhibit production or make it impossible to qualify for agricultural preserve status), and*
- b. Conversion would contribute to the logical completion of an existing urban neighborhood, and*
- c. There are no alternative areas appropriate for infilling within the urban area or there are no other parcels along the urban periphery where the agricultural potential is more severely restricted.*

Policy 8-4:

As a requirement for approval of any proposed land division of agricultural land designated as Agriculture I or II in the land use plan, the County shall

make a finding that the long-term agricultural productivity of the property will not be diminished by the proposed division.

Policy 9-16a Wetland:

No grazing or other agricultural uses shall be permitted in coastal wetlands.

Policy 9-26 White-tailed Kite:

There shall be no development including agricultural development, i.e., structures, roads, within the areas used for roosting and nesting.

Policy 9-42 Streams:

The following activities shall be prohibited within stream corridors: cultivated agriculture, pesticide applications, except by a mosquito abatement or flood control district, and installation of septic tanks.

3. Existing IP/CZO Policies

Sec. 35-64. Agricultural Lands

1. If a lot is zoned for agricultural use and is located in a rural area not contiguous with the urban/rural boundary, rezoning to a non-agricultural zone district shall not be permitted unless such conversion of the entire lot would allow for another priority use under the Coastal Act, e.g., coastal dependent industry, recreation and access, or protection of an environmentally sensitive habitat. Such conversion shall not be in conflict with contiguous agricultural operations in the area, and shall be consistent with PRC §§ 30241 and 30242 of the Coastal Act.

2. If a lot is zoned for agricultural use and is located in a rural area contiguous with the urban/rural boundary, rezoning to a non-agricultural zone district shall not be permitted unless:

a. The agricultural use of the land is severely impaired because of physical factors (e.g., high water table), topographical constraints, or urban conflicts (e.g., surrounded by urban uses which inhibit production or make it impossible to qualify for agricultural preserve status), and

b. Conversion would contribute to the logical completion of an existing urban neighborhood, and

c. There are no alternative areas appropriate for infilling within the urban area or there are no other lots along the urban periphery where the agricultural potential is more severely restricted.

Sec. 35-97.14. Development Standards for White-Tailed Kite Habitats.

1. There shall be no development including agricultural development, i.e., structures, roads, within the area used for roosting and nesting.

2. Recreational use of the roosting and nesting area shall be minimal, i.e., walking, bird watching. Protective measures for this area should include fencing and posting so as to restrict, but not exclude, use by people.

3. Any development around the nesting and roosting area shall be set back sufficiently far as to minimize impacts on the habitat area.

4. In addition to preserving the ravine plant communities on More Mesa for nesting and roosting sites, the maximum feasible area shall be retained in grassland to provide feeding area for the kites.

Sec. 35-140.2 Tree Removal Applicability.

A Coastal Development Permit under Sec. 35-169 shall be required for the removal of any tree which is six inches or more in diameter measured four (4) feet above the ground and six feet or more in height and which is 1) located in a County street right-of-way; or 2) located within 50 feet of any major or minor stream except when such trees are removed for agricultural purposes; or 3) oak trees; or 4) used as habitat by the monarch butterflies.

4. General Discussion

The Toro Canyon Plan area experiences a combination of mild climatic conditions, prime agricultural soils, available water sources, and proximity to major markets, making the area a valuable agricultural resource. The ability to grow a diverse range of high-yield specialty crops, such as avocados, kiwis, cherimoyas, cut flowers, and nursery stock plants, provides growers with the flexibility to respond to market and environmental changes. Additionally, greenhouses are prevalent on the flatter reaches of the Plan area.

Open field agriculture production in the Plan area is dominated by avocado orchards. However, the area's unique climate also results in the area being one of the State Leaders in high-yield specialty crops including citrus, cherimoyas, passion fruit, kiwis, bananas and other sub-tropical fruits. Numerous open field growers also use the area's unique resources to produce high quality cut flowers and nursery products in the lower reaches of the foothills and throughout the valley flat land. This diversity of crops contributes to the overall agricultural productivity of the area by providing growers with the flexibility to respond to market and environmental changes.

The Coastal Act policies provide for the continuation of coastal agriculture on prime agricultural lands. Within the Toro Canyon Plan area, prime soils combine with unique coastal climates for highly productive agriculture. The LCP contains several policies regarding new development and protection of agricultural resources. Section 30250 of the Coastal Act requires that new development be located within, or within close proximity to, existing developed areas able to accommodate such development. Consistent with Section 30250, Policies 2-1 and 2-6 of the LCP require that new development, including any division of land, must ensure adequate public services (i.e., water, sewer, roads, etc.) are available. In addition, Policy 2-12 of the

LCP provides that the densities specified in the land use plan are maximums and shall be reduced if it is determined that such reduction is warranted by site specific conditions. Sections 30241 and 30242 of the Coastal Act require that all agricultural lands be protected and maintained and that conversion of such lands shall be limited. Consistent with Sections 30241 and 30242, Policy 8-2 of the LCP provides that parcels designated for agricultural use located in rural areas shall not be converted unless such conversion would allow for another priority use under the Coastal Act such as public access, recreation, habitat protection, etc. Policy 8-4 of the LCP requires that land division of agricultural land shall not diminish the long-term agricultural viability of the parcels involved.

The Toro Canyon Plan proposes to preserve agricultural areas in the planning area by rezoning most coastal zone agricultural lands to larger minimum parcels sizes. In general, rezones were proposed because of very steep topography, high probability of landslides and erosion, high visibility, poor accessibility, and very high fire hazard. The rezones provide additional measures to guide appropriate development of these areas. In addition, the redesignation of land from Agriculture to Mountainous Area is proposed for the most remote parts of the planning area where steep slopes (defined as greater than 40 percent) are already constraints to agricultural production. The redesignation to Mountainous would not lead to the loss of agriculture productivity because it allows for continuation of cultivated agriculture (with some restrictions). The Mountainous Area land use designation is intended to balance the preservation of resources and open lands with agricultural expansion.

Larger minimum parcel sizes are proposed to ensure agricultural viability, and reduce potential land divisions that would lead to agriculturally non-viable parcels. Reducing the size of agricultural parcels is generally expected to impair productivity of current agricultural operations on entire parcels by reducing acreage in production and reducing flexibility in operations. Land divisions would increase the potential for non-agricultural development (e.g., residences and roads). Additional residential or accessory development on the parcel would diminish land available for continued agricultural uses. Reduced productivity could result in the abandonment of commercial agriculture, and the cumulative reduction in the land available for agricultural uses within Santa Barbara County.

Within the coastal zone, areas with 30% slopes or greater, including mountainous parcels, are included in within a Watershed Protection Overlay District (see Section E.7) to restrict development on steep slopes that individually and cumulatively contribute to erosion, sedimentation, and have adverse impacts to rural character, water quality, and potentially downstream agriculture. Existing agriculture would be allowed to continue, however, the Watershed Protection Overlay prohibits new development on slopes 30% or greater as described in IP Modification 171.

The Commission finds that the proposed down-zoning of agricultural parcels in the Plan area will increase the long-term viability as agricultural parcels consistent with Coastal Act requirements.

Section 30241 of the Coastal Act requires that the maximum amount of prime agricultural land be maintained in agricultural production, and Section 30243 of the Coastal Act states "the long-term productivity of soils...shall be protected..." These policies are incorporated as guiding principles of the certified LUP agricultural policies. Combined, these policies require maximum protection of prime soils and the productivity of these soils. Consistent with past guidance, greenhouses can be interpreted as maintaining agriculture land in production, even if they do not make direct use of the soil, provided that they protect the long-term productivity of the soil and protect the agricultural economy. Greenhouses that put concrete or other hardscape on prime agricultural soil do not protect the agricultural economy because it does not maintain the flexibility of prime agricultural soils to be readily restored to their original productivity level.

Therefore, the Commission requires LUP Modification 17 to protect prime soils consistent with Section 30241 and 30243. LUP Modification 17 requires that structures, including greenhouses that do not rely on in-ground cultivation, be sited to avoid prime soils to the maximum extent feasible in areas with prime agricultural soils. This policy is implemented through the TCP Overlay District as outlined in IP Modification 172, Section 35-194.9, Agricultural Soils.

Additionally, the Toro Canyon Plan provides special exception for meeting LCP and Coastal Act requirements for agricultural infrastructure. DevStd BIO-TC-4.4 indicates that essential infrastructures for existing agricultural production should be protected and maintained and that if any conflicts between policies arises, then essential agricultural infrastructure would override other policies. While the Coastal Act calls for the protection of agriculture, the proposed development standard, in essence, calls for a balancing in favor of agricultural structures though the specific details of the project are not known. As described in Section 1.6, in cases such as these, if balancing of policies does occur, the balancing of policies requires specific analysis with the outcome that is most protective of resources. Therefore, the Commission finds it necessary to delete DevStd BIO-TC-4.4 as provided in LUP Modification 90. This changes would not preclude the continued routine maintenance of nonconforming agricultural support structures.

5. Agriculture to Residential Conversion

A fundamental policy of the Coastal Act is the protection of agricultural lands. The Act sets a high standard for the conversion of any agricultural lands to other land uses. Section 30241 of the Coastal Act requires the maintenance of the maximum amount of prime agricultural land in agricultural production to assure the protection of agricultural economies. Section 30113 of the Coastal Act defines "prime agricultural land" as

...those lands defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.

Section 51201(c) states in relevant part:

"Prime agricultural land" means any of the following:

- (1) All land that qualifies for rating as class I or class II in the Natural Resources Conservation Service land use capability classifications.*
- (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.*
- (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department 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 return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.*

Section 30241 also requires minimizing conflicts between agricultural and urban land uses through six tests. Section 30241 of the Coastal Act states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

If the viability of existing agricultural uses is an issue, Section 30241.5 of the Coastal Act provides criteria to be addressed regarding the agricultural "viability" of such land.

These findings must address an assessment of gross revenues from agricultural products grown in the area and an analysis of operational expenses associated with such production. Subsection (b) specifically requires that such economic feasibility studies be submitted with any LCP Amendment request. Section 30241.5 of the Coastal Act states:

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:

(1) 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 a proposed local coastal program or an amendment to any local coastal program.

(2) 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 a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, "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 local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242 of the Coastal Act provides additional requirements for conversion of properties that are suitable for agriculture, but are not necessarily prime agricultural land. Section 30242 states:

All 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 consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Coastal Act Sections 30241, 30241.5 and 30242 provide the basis for analyzing conversion of agricultural land as well as land use on properties adjacent to farmland. The sections address a variety of scenarios that could impact agricultural production. The County is proposing to rezone seven parcels from agriculture (40-acre minimum parcel size) to Single Family Residential Minimum 2 acre. These parcels, comprising a

total of approximately 16 acres, are located northeast of the intersection of Foothill and Toro Canyon Roads. Section 30241 also requires minimizing conflicts between agricultural and urban land by meeting all six criteria. Though the proposed parcels do not meet the definition of prime agricultural lands under the Coastal Act, Commission staff is recommending against the conversion because it does not minimize conflicts or assure long-term productivity, and fails meet two important criteria under 30241(a) and (b).

The County submitted an *Agricultural Feasibility of the Toro Canyon Area, Carpinteria, Santa Barbara County*, dated July 16, 2003 and prepared by an independent agricultural consultant. A summary of the parcel size and use was provided in the analysis:

Assessor Parcel Number	Size	Use
155-14-13	1.84 acre	Extensive excavation for new house construction, no agricultural production
155-14-56	1.77 acre	Mainly residential, about 20 remaining avocado trees.
155-14-57	2.96 acre	Residential, with about 80 avocado trees, crops sold to offset costs, operate a small water well for irrigation.
155-14-58	1.00 acre	Residential, about 5 remaining avocado trees
155-14-38	5.65 acre	Two residences, with about 240 avocado trees.*
155-14-39	2.00 acre	Residential, with about 90 avocado trees.*
155-14-49	1.00 acre	Residential, with about 20 avocado trees.*

* Avocado orchards on these lots operated by one owner as a unit.

The Agricultural Viability Report argues that these lots have limited potential for different agricultural crops because the site is steeply sloped with heavy clay soils. The only identified potential crop is avocado orchards which are reported to being in poor condition because of the presence of Avocado Root Rot disease. Additionally an arguments is made that the small parcel sizes render them unsuitable for commercial agriculture. Utilizing data from parcels 155-14-38, -39, and -49, the five-year economic analysis reported an average annual income of \$705/acre and average annual cost of \$1,057/acre. The economic data is compared within the report with the University of California Cooperative Extension study "Avocado Sample Establishment and Production Costs and Profitability Analysis for Ventura and Santa Barbara Counties."

Note, Commission records used in the early 1980s during the LCP process show only three parcels, not seven. As with this LCP amendment, the Land Use Plan and Zoning

Maps do not constitute a finding that the parcel lines shown are indicative of lot legality. Parcel delineations are for general planning purposes only and their accuracy cannot be guaranteed. A history of parcel creation was not submitted with this amendment and therefore staff was unable to discern when the division of land occurred, and if it occurred prior to the Coastal Act. A preliminary search of our records indicate that no final local action notices were received for a land division in that area since the certification of the LCP.

The proposed amendment reduces the "Urban" area land use category by shifting the Urban/Rural boundary line inward to encompass a smaller portion of the northwestern part of Toro Canyon. In this region, much of the area inside the existing urban boundary line is actually rural in nature, with relatively large lot sizes and significant development constraints. The urban boundary line has been relocated within the coastal zone to encompass only the relatively small properties along Ladera, Freehaven, and Macadamia Lanes, and the "Cima Del Mundo" properties zoned 5-E-1 on East Valley Road (see Exhibit 7). The shift in the Urban/Rural boundary reduces the Urban area in the coastal zone by designating it an Existing Developed Rural Neighborhood.

The proposed agricultural conversion parcels would be included as part of the Torito Road Rural Neighborhood. While the reduced density of rural residential development may have comparatively less impact to coastal resources than more dense urban areas, there remains a very real threat to the long-term productivity of agriculture as a result of the increasing trend for rural ranchette-style housing. As mentioned previously, residences within existing Rural Neighborhoods are mostly custom homes, with a few tract homes on some of the smaller lots. However, the County has recognized an increasing trend for residential development for new custom homes with structures far larger than existing homes, from 5,000 to as large as 20,000 square feet.

The Commission recognizes that the pressure for the County to incorporate additional smaller parcels into the Rural Neighborhoods will increase as the demand for housing rises. As the pressure for housing continues to rise, Coastal Act requirements to preserve and protect the maximum amount of coastal agriculture are increasingly jeopardized. In certain cases, under the Coastal Act, agriculture may be converted where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

At first glance, due to the smaller configuration of the parcels, it appears that the conversion would result in a logical expansion of the Rural Neighborhood boundary. However, it would not establish a "stable" boundary between residential and agricultural uses. Though the proposed conversion parcels are surrounded to the south and west by residential ranchette land uses and to the north by an existing rural neighborhood, the area to the east would remain designated agriculture. An adjacent agricultural parcel, not included in the proposed conversion, is also much smaller than the 40-acre minimum parcel size, and there are two more parcels to the east of lesser size with

available infrastructure consistent with 30250. Each of these parcels could presumably claim that economic viability is infeasible due to steep slopes and parcel size.

As a result, the conversion of the proposed seven parcels does not provide a clearly defined buffer area. To the contrary, it encourages further migration of rural residential uses in areas that are currently zoned for agricultural production. Some of these parcels would likely meet the criteria defined under Section 30250 for conversion if the proposed seven-parcel conversion were to occur.

As a result of the aforementioned development pressures, the Commission finds that delineating stable boundaries and clearly defined buffer areas must be maintained to avoid conflicts between agriculture and urban uses. The conversion of the proposed parcels would represent attrition of the long-term viability of agriculture in Toro Canyon by cumulatively converting agricultural parcels to residential parcels, and not providing an adequate buffer to minimize conflicts with the larger agricultural parcels.

The proposed residential designation would allow for one additional land division. However, as suggested through Modification 171, the Watershed Protection Overlay would be applied to lands with slopes 30% or greater. The provisions of this Overlay do not allow further land divisions if parcels would be created that would not provide a building pad area of less than 30%. Even then, such development would need to conform to the other provisions of the Toro Canyon Plan which require geotechnical review to confirm that all geologic and erosion hazards are abated for development on greater than 20% slopes.

As a result of the above factors, the Commission recognizes the general constraints on agricultural and residential development on 30% slopes or greater. The Commission finds that though the proposed agricultural parcels may be constrained, and its economic viability into the future may be questionable, the existing agricultural designation does not preclude residential development on legal parcels, as would be allowed under the proposed residential designation. However, retaining the agricultural designation will not allow further division of the parcels. Such a division is inappropriate in these circumstances, given the geotechnical constraints.

Therefore the Commission finds that the proposed agricultural conversion to residential on the seven parcels off of Toro Canyon Road does not meet the Section 30241 criteria to minimize conflicts by establishing a stable limit between residential and agricultural land uses. Therefore Commission requires LUP Modification 158 and IP Modification 169 to retain the Agriculture, Minimum 40-acre designation on APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058.

Based on the findings above, the Commission therefore finds that the proposed LUP amendments with regard to protection of coastal agriculture as submitted are inconsistent with the requirements of Sections 30241 and 30243 of the Coastal Act unless modified as suggested above. Additionally, the proposed agriculture protection

implementation amendments are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

G. MARINE AND LAND RESOURCES

1. Coastal Act Policies

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects 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, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) 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.

2. Existing LUP Policies

Policy 1-2:

Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.

Policy 1-3:

Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County's Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence.

Policy 2-11:

All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

Policy 7-4:

The County, or appropriate public agency, shall determine the environmental carrying capacity for all existing and proposed recreation areas sited on or adjacent to dunes, wetlands, streams, tidepools, or any other areas designated as "Habitat Areas" by the land use plan. A management program to control the kinds, intensities, and locations of recreational activities so that habitat resources are preserved shall be developed, implemented, and enforced. The level of the facility development (i.e., parking spaces, camper sites, etc.) shall be correlated with the environmental carrying capacity.

Policy 9-1:

Prior to the issuance of a development permit, all projects on parcels shown on the land use plan and/or resource maps with a Habitat Area overlay designation or within 250 feet of such designation or projects affecting an environmentally sensitive habitat area shall be found to be in conformity with the applicable habitat protection policies of the land use plan. All development plans, grading plans, etc., shall show the precise location of the habitat(s) potentially affected by the proposed project. Projects which could adversely impact an environmentally sensitive habitat area may be subject to a site inspection by a qualified biologist to be selected jointly by the County and the applicant.

Policy 9-6 Wetland:

All diking, dredging, and filling activities shall conform to the provisions of Sections 30233 and 30607.1 of the Coastal Act. Dredging, when consistent with these provisions and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat, shall be subject to the following conditions:

- a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.**
- b. Dredging shall be limited to the smallest area feasible.**

c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials. During permitted dredging operations, dredge spoils may only be temporarily stored on existing dikes, or on designated spoil storage areas, except in the Atascadero Creek area (including San Jose and San Pedro Creeks) where spoils may be stored on existing storage areas as delineated on the Spoil Storage Map, dated February, 1981. (Projects which result in discharge of water into a wetland require a permit from the California Regional Water Quality Control Board.)

Policy 9-7 Wetland:

Dredge spoils shall not be deposited permanently in areas subject to tidal influence or in areas where public access would be significantly adversely affected. When feasible, spoils should be deposited in the littoral drift, except when contaminants would adversely affect water quality or marine habitats, or on the beach.

Policy 9-8 Wetland:

Boating shall be prohibited in all wetland areas except for research or maintenance purposes.

Policy 9-9 Wetland:

A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Policy 9-10.

The upland limit of wetland shall be defined as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or 2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

Policy 9-10 Wetland:

Light recreation such as bird-watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.

Policy 9-11 Wetland:

Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.

Policy 9-12 Wetland:

Wetland sandbars may be dredged, when permitted pursuant to Policy 9-6 above, and when necessary for maintenance of tidal flow to ensure the continued biological productivity of the wetland.

Policy 9-13 Wetland:

No unauthorized vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses.

Policy 9-14 Wetland:

New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

Policy 9-15 Wetland:

Mosquito abatement practices shall be limited to the minimum necessary to protect health and prevent damage to natural resources. Spraying shall be avoided during nesting seasons to protect wildlife, especially the endangered light-footed clapper rail and Belding's savannah sparrow. Biological controls are encouraged.

Policy 9-16a Wetland:

No grazing or other agricultural uses shall be permitted in coastal wetlands.

Policy 9-16b Wetland:

The County shall request the Department of Fish and Game to identify the extent of degradation which has occurred in the Carpinteria Estero and Goleta Slough pursuant to Section 30411 of the Coastal Act. As part of the study, the Department, working jointly with the Santa Barbara Flood Control Department and the Soil Conservation Service, will also identify the most feasible means of restoration and the area of wetlands to be restored.

Policy 9-17 Native Grassland:

Grazing shall be managed to protect native grassland habitat;

Policy 9-18 Native grassland:

Development shall be sited and designed to protect native grassland areas.

Policy 9-19 Vernal Pools:

No mosquito control activity shall be carried out in vernal pools unless it is required to avoid severe nuisance.

Policy 9-20 Vernal Pools:

Grass cutting for fire prevention shall be conducted in such a manner as to protect vernal pools. No grass cutting shall be allowed within the vernal pool area or with a buffer zone of five feet or greater.

Policy 9-21 Vernal Pools:

Development shall be sited and designed to avoid vernal pool sites as depicted on the resource maps.

Policy 9-22 Butterfly Trees:

Butterfly trees shall not be removed except where they pose a serious threat to life of property, and shall not be pruned during roosting and nesting season.

Policy 9-23 Butterfly Trees:

Adjacent development shall be set back a minimum of 50 feet from the trees.

Policy 9-26 White-tailed Kite:

There shall be no development including agricultural development, i.e., structures, roads, within the areas used for roosting and nesting.

Policy 9-27 White-tailed Kite:

Recreational use of the roosting and nesting area shall be minimal, i.e., walking, bird watching. Protective measures for this area should include fencing and posting so as to restrict, but not exclude, use by people.

Policy 9-28 White-tailed Kite:

Any development around the nesting and roosting area shall be set back sufficiently far as to minimize impacts on the habitat area.

Policy 9-29 White-tailed Kite:

In addition to preserving the ravine plant communities on More Mesa for nesting and roosting sites, the maximum feasible area shall be retained in grassland to provide feeding area for the kites.

Policy 9-30 Rocky Point and Intertidal Areas:

In order to prevent destruction of organisms which thrive in intertidal areas, no unauthorized vehicles shall be allowed in beaches adjacent to intertidal areas.

Policy 9-31 Rocky Point and Intertidal Areas:

Only light recreational use shall be permitted on public beaches which include or are adjacent to rocky points or intertidal areas.

Policy 9-32 Rocky Point and Intertidal Areas:

Shoreline structures, including piers, groins, breakwaters, drainages, and seawalls, and pipelines, should be sited or routed to avoid significant rocky points and intertidal areas.

Policy 9-35 Native Plant Communities (e.g., coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species & other plants of special interest):

Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.

Policy 9-36 Native Plant Communities:

When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

Policy 9-37 Streams:

The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:

- a. soil type and stability of stream corridors;*
- b. how surface water filters into the ground;*
- c. slope of the land on either side of the stream; and*
- e. location of the 100-year floodplain boundary.*

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.

Policy 9-38 Streams:

No structures shall be located within the stream corridor except: public trails, dams for 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; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.

Policy 9-39 Streams:

Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.

Policy 9-40 Streams:

All development, including dredging, filling, and grading within stream corridors, shall be limited to activities necessary for the construction of uses specified in Policy 9-38. When such activities require removal of riparian plant species, revegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.

Policy 9-41 Streams:

All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

Policy 9-42 Streams:

The following activities shall be prohibited within stream corridors: cultivated agriculture, pesticide applications, except by a mosquito abatement or flood control district, and installation of septic tanks.

Policy 9-43 Streams:

Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.

3. Existing IP/CZO Policies

Sec. 35-53. Overlay District Designations and Applicability. *(in relevant part)*

...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.

Sec. 35-97.2. Applicability and District Boundaries as a Guide.

The provisions of this overlay district shall apply to land or water zoned ESH on the applicable Santa Barbara County Zoning Map. For purposes of determining the application of this overlay district to any lot of land or water, the zoning maps shall be the guide. If the habitat area delineated on the applicable zoning maps is determined by the Coastal Planner not to be

located on the particular lot or lots, the regulations of this overlay district shall not apply.

Sec. 35-97.3. Identification of Newly Documented Sensitive Habitat Areas.

If a newly documented environmentally sensitive habitat area, which is not included in the ESH Overlay District, is identified by the County on a lot or lots during application review, the provisions of Secs. 35-97.7. - 35-97.19. shall apply. The County will periodically update the application of the ESH Overlay District to incorporate these new habitat areas (including the 250 foot area around the habitat).

Sec. 35-97.4. Affect of ESH Overlay District.

Within the ESH Overlay District, all uses of land or water shall comply with the regulations of the base zone district. In addition, such uses must comply with the additional regulations of the ESH Overlay District before the issuance of a coastal development permit under Sec. 35-169. See Sec. 35-53. concerning conflict between provisions of ESH and base zone district.

Sec. 35-97.5. Processing.

In addition to the application requirements of the base zone district, applications for a coastal development permit for any development in the ESH Overlay District shall include:

- 1. A description of the flora and fauna which occupy the site or are occasionally found thereon, setting forth with detail those areas where unique plant and animal species or their habitats may be found on the site.*
- 2. A delineation of all streams, rivers, water bodies, and wetlands located on the site.*
- 3. A clear delineation of all areas which shall be graded, paved, surfaced, or covered with structures, including description of the surfacing material to be used.*
- 4. Any other information pertinent to the particular development which might be necessary for the review of the project requested by the Planning and Development Department.*

Upon receipt of an application for development within the ESH Overlay District, the Coastal Planner shall determine the potential of the proposed development to adversely impact an environmentally sensitive habitat area. If the proposed development is exempt from CEQA and is determined by the Coastal Planner to have no potential for adverse impacts on an environmentally sensitive habitat area and meets all the other requirements for a coastal development permit, the Coastal Planner shall issue the permit.

If the proposed development is exempt from CEQA and the Coastal Planner determines that the proposed development has potential for adverse impacts on an environmentally sensitive habitat area, the project shall be processed through environmental review and where necessary, a site inspection by a

qualified biologist to be selected jointly by the County and the applicant shall be required. If the environmental document indicates that the development has no significant unavoidable adverse impacts on an environmentally sensitive habitat area and meets all the other requirements for a coastal development permit, the Coastal Planner shall issue the coastal development permit with appropriate conditions if necessary. If the environmental document indicates that the development has significant unavoidable adverse impacts on an environmentally sensitive habitat area, the Coastal Planner shall refer the project to the Planning Commission for decision after a noticed public hearing.

See. 35-97.6. Finding Required for Approval of Coastal Development Permits.

Prior to issuance of a coastal development permit for any development within the ESH Overlay District, a finding shall be made that the proposed development meets all applicable development standards in Secs. 35-97.8. through 35-97.19.

Sec. 35-97.7. Conditions on Coastal Development Permits in ESH.

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.

Sec. 35-97.9. Development Standards for Wetland Habitats.

1 All diking, dredging, and filling activities shall conform to the provisions of PRC §§ 30233 and 30607.1 of the Coastal Act. Presently permitted maintenance dredging, when consistent with these provisions and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat, shall be subject to the following conditions:

a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.

b. Dredging shall be limited to the smallest area feasible.

c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials. During permitted dredging operations, dredge spoils may only be temporarily stored on existing dikes, or on designated spoil storage areas, except in the Atascadero Creek area (including San Jose and San Pedro Creeks) where spoils may be stored on existing storage areas as

delineated on the Spoil Storage Map dated February 1981. (Projects which result in discharge of water into a wetland require a permit from the California Regional Water Quality Control Board.

2. Dredge spoils shall not be deposited permanently in areas subject to tidal influence or in areas where public access would be significantly adversely affected. When feasible, spoils should be deposited in the littoral drift, except when contaminants would adversely affect water quality or marine habitats, or on the beach.

3. Except in Ocean Beach County Park, boating shall be prohibited in all wetland areas except for research or maintenance purposes.

4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in paragraph 5 of this Section, below. The upland limit of a wetland shall be defined as:

a. The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or

b. The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

c. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

5. Light recreation such as bird-watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.

6. Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.

7. Wetland sandbars may be dredged, when permitted pursuant to paragraph 1 of this Section and when necessary for maintenance of tidal flow to ensure the continued biological productivity of the wetland.

8. No unauthorized vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses.

9. New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

10. Mosquito abatement practices shall be limited to the minimum necessary to protect health and prevent damage to natural resources. Spraying shall be avoided during nesting seasons to protect wildlife, especially the endangered light-footed clapper rail and Belding's savannah sparrow. Biological controls are encouraged.

11. No grazing or other agricultural uses shall be permitted in coastal wetlands except at the mouth of the Santa Maria River.

Sec. 35-97.10. Development Standards for Native Grassland Habitats.

- 1. Grazing shall be managed to protect native grassland habitats.**
- 2. Development shall be sited and designed to protect native grassland areas.**

Sec. 35-97.11. Development Standards for Vernal Pool Habitats.

- 1. No mosquito control activity shall be carried out in vernal pools unless it is required to avoid severe nuisance.**
- 2. Grass cutting for fire prevention shall be conducted in such a manner as to protect vernal pools. No grass cutting shall be allowed within the vernal pool area or within a buffer zone of five feet or greater.**
- 3. Development shall be sited and designed to avoid vernal pool sites as depicted on the resource maps.**

Sec. 35-97.12. Development Standards for Butterfly Tree Habitats.

- 1. Butterfly trees shall not be removed except where they pose a serious threat to life or property, and shall not be pruned during roosting and nesting season.**
- 2. Adjacent development shall be set back a minimum of 50 feet from the trees.**

Sec. 35-97.14. Development Standards for White-Tailed Kite Habitats.

- 1. There shall be no development including agricultural development, i.e., structures, roads, within the area used for roosting and nesting.**
- 2. Recreational use of the roosting and nesting area shall be minimal, i.e., walking, bird watching. Protective measures for this area should include fencing and posting so as to restrict, but not exclude, use by people.**

3. Any development around the nesting and roosting area shall be set back sufficiently far as to minimize impacts on the habitat area.

4. In addition to preserving the ravine plant communities on More Mesa for nesting and roosting sites, the maximum feasible area shall be retained in grassland to provide feeding area for the kites.

Sec. 35-97.15. Development Standards for Rocky Points and Intertidal Habitats.

1. In order to prevent destruction of organisms which thrive in intertidal areas, no unauthorized vehicles shall be allowed on beaches adjacent to intertidal areas.

2. Only light recreational uses shall be permitted on public beaches which include or are adjacent to rocky points or intertidal areas.

3. Shoreline structures, including piers, groins, breakwaters, drainages, seawalls, and pipelines, should be sited or routed to avoid significant rocky points and intertidal areas.

Sec. 35-97.16. Development Standards for Subtidal Reef Habitats.

1. Naples reef shall be maintained primarily as a site for scientific research and education. Recreational and commercial uses shall be permitted as long as such uses do not result in depletion of marine resources. If evidence of depletion is found, the County shall work with the California Department of Fish and Game and sport and commercial fishing groups to assess the extent of damage and implement mitigating measures.

Sec. 35-97.17. Development Standards for Seabirds Nesting and Roosting Site Habitats.

Recreational activities near areas used for roosting and nesting shall be controlled to avoid disturbance to seabird populations, particularly during nesting season.

Sec. 35-97.18. Development Standards for Native Plant Community Habitats.

Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.

1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.

2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation.

In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

Sec. 35-97.19. Development Standards for Stream Habitats.

1. The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the California Department of Fish and Game and California Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:

- a. Soil type and stability of stream corridors.***
- b. How surface water filters into the ground.***
- c. Slope of land on either side of the stream.***
- d. Location of the 100-year flood plain boundary.***

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.

2. No structures shall be located within the stream corridor except: public trails, dams for 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; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route location is feasible. All development shall incorporate the best mitigation measures feasible.

3. Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.

4. All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required except where undesirable for flood control purposes. Minor

clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.

5. All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

6. Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.

Sec. 35-140.1 General Regulations - Tree Removal Purpose and Intent.

The purpose of this section is to regulate the removal of certain trees within the Coastal Zone. The intent is to preserve healthy trees that are important for the protection of habitat areas and the scenic and visual quality of the County

Sec. 35-140.2 Tree Removal Applicability.

A Coastal Development Permit under Sec. 35-169 shall be required for the removal of any tree which is six inches or more in diameter measured four (4) feet above the ground and six feet or more in height and which is 1) located in a County street right-of-way; or 2) located within 50 feet of any major or minor stream except when such trees are removed for agricultural purposes; or 3) oak trees; or 4) used as habitat by the monarch butterflies.

Section 35-140.3 Tree Removal Processing.

In addition to the requirements for the issuance of a coastal development permit set forth in Sec. 35-169., a coastal development permit for the removal of trees shall not be issued unless a Coastal Planner makes one of the following findings:

- 1. The trees are dead.*
- 2. The trees prevent the construction of a project for which a coastal development permit has been issued and project redesign is not feasible.*
- 3. The trees are diseased and pose a danger to healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning and Development Department by a licensed tree surgeon.*
- 4. The trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.*

4. General Discussion

Toro Canyon extends from the crest of the Santa Ynez Mountains in Los Padres National Forest to the Pacific Ocean, supporting diverse biological resources and habitats, including Southern Coast Live Oak Riparian Forest, Coast Live Oak Forest,

Coast Live Oak Woodland, Scrub Oak Chaparral (none within coastal zone), Chaparral, Coastal Sage Scrub, Native Grassland, Wetlands, Sandy Beach, Marine, and four principal creeks (Picay, Toro, Garrapata, and Arroyo Paredon Creeks) and their tributaries. Although residential and agricultural development has fragmented this habitat, there remain large expanses of native vegetation, rare and sensitive plant and animal species, and key habitat linkages.

The Coastal Act, Coastal Land Use Plan, and Conservation Element of the Comprehensive Plan contain numerous policies that require protection of a variety of sensitive plant and animal species and environmentally sensitive habitats, including streams and riparian habitats, wetlands (such as vernal pools), native grasslands, oak/riparian woodlands, oak forests, monarch roosting sites, and native vegetation (including coastal sage scrub and chaparral).

The Toro Canyon Plan proposes a variety of policies and development standards to limit the impacts of development on biological resources including the reduction of land use densities and the redesignation of some lands (e.g., to Mountainous Area). These policies, development standards, and actions build upon existing adopted policies to protect biological resources. The Plan's policies and standards include provisions for ESH determinations (BIO-TC-1.1 - BIO-TC-1.3), setbacks and buffer zones from environmentally sensitive habitats (BIO-TC-1.4), restoration of zoning violations adversely impacting ESH (BIO-TC-1.5), limitations on landscaping near ESH and restoration requirements (BIO-TC-2, BIO-TC-2.1, BIO-TC-2.2), use of conservation easements to preserve important biological habitats (BIO-TC-3), siting development to minimize scale and avoid habitat fragmentation and fuel modifications (BIO-TC-4.1 - 4.3, BIO-TC-12, BIO-TC-12.1), reduced impacts to ESH from residential additions (BIO-TC-5 - BIO-TC-5.3), provisions for nonconforming structures (BIO-TC-6), minimization of stream channel disturbance (BIO-TC-11), specific requirements for Southern Coast Live Oak Riparian Forest buffer development (BIO-TC-11.1), alluvial well extractions (BIO-TC-11.2), trail siting requirements (BIO-TC-12.2 and Appendix E), funding of restoration (BIO-TC-12.3), protection of native and non-native specimen trees and trees that provide raptor nesting (BIO-TC-13 - BIO-TC-14), protection of steelhead trout and associated streams (BIO-TC-15 - BIO-TC-15.2), and limits to grading on steep slopes (GEO-TC-1.1).

5. Environmentally Sensitive Habitat Designations

The Coastal Act and certified LCP provide the definition of "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" (Section 30107.5).

Debate has occurred about whether some habitat types merit the definition as "ESH" within the Toro Canyon Planning Area. ESH types have already been identified by the County's certified Coastal Plan as follows:

Dunes	Subtidal Reefs
Wetlands	Rocky Points and Intertidal Areas
Native Grasslands	Kelp Beds
Vernal Pools	Seabird Nesting and Roosting Areas
Butterfly Trees	Native Plant Communities
Marine Mammal Rookeries and Hauling Grounds	Streams
White-tailed Kite Habitat	

The LCP reports that the following criteria were used in determining that the above habitats in the County's coastal zone warranted mapping under the ESH overlay:

1. Unique, rare, or fragile communities which should be preserved to ensure their survival in the future, e.g., dune vegetation, native grasslands.
2. Rare and endangered species habitats that are also protected by Federal and State laws, e.g., harbor seal rookeries and haul out areas.
3. Plant community ranges that are of significant scientific interest because of extensions of range, or unusual hybrid, disjunct, and relict species.
4. Specialized wildlife habitats which are vital to species survival, e.g., white-tailed kite habitat, butterfly trees.
5. Outstanding representative natural communities that have values ranging from a particularly rich flora and fauna to an unusual diversity of species.
6. Areas with outstanding educational values that should be protected for scientific research and educational uses now and in the future.
7. Areas that are important because of their biological productivity such as wetlands, kelp beds, and intertidal areas.
8. Areas that are structurally important in protecting natural landforms and species and species, e.g., dunes which protect inland areas, riparian corridors that protect stream banks from erosion and provide shade, kelp beds which provide cover for many species.

The Coastal Act and LCP recognize that the resource areas that are considered ESH are not static over time. Development across the state results in the loss of natural areas and fragmentation of habitat, subsequently certain habitats and/or plant and animal species may become more rare and their protection more critical in the future. Additionally, scientific study may reveal new information and understanding of the existence, rarity, or importance of certain habitats and species.

The County's updated review identified several species occurring, or potentially occurring, within the Plan area that currently have a protected status on a federal and/or

state level. The status of protected species, current as of December 2001, in the Plan area and their respective habitats are described in more detail below.

The federally threatened California Red-Legged Frog occurs in aquatic habitats along streams and rivers, preferring pools with dense emergent or overhanging vegetation. Red-legged frog could occur in Toro Creek, but they are not likely due to the lack of suitable habitat. The Southwestern Pond Turtle is a California Species of Special Concern that occurs throughout Santa Barbara County along rivers and streams with permanent ponds. Suitable habitat is present in and along well-wooded sections of Toro Creek. The Plan area, as part of the entire South Coast area of Santa Barbara County, is designated critical habitat for the Southern California steelhead trout, which has the potential to occur in any of the streams and creeks. Other sensitive aquatic species such as the California newt and two-striped garter snake are known to occur in the Toro Canyon region and are considered sensitive and declining (Jennings and Haynes, 1994). These species may be associated with Arroyo Paredon and Picay Creeks, which also have favorable characteristics for these sensitive species.

Other sensitive species which are either expected or have the potential to inhabit or use the project area include Least Bell's Vireo, Pacific Slope Flycatcher, Warbling Vireo, Willow Flycatcher, and others (Toro Canyon Elementary School Proposed Final EIR, 1998). Three sensitive plant species, Plummer's Baccharis, Chaparral Mallow, and White Flowered Sticky Phacelia, occur in the Summerland Community Plan area to the west. The Toro Canyon Plan includes two known Monarch Butterfly habitats that are mapped at locations on Padaro Lane.

6. Habitats Within Toro Canyon Plan Area

The County identified the biological resources in Toro Canyon from a range of information sources. Biological studies of specific development project sites within Toro Canyon and the Carpinteria Valley provided a background for the general biological resources in the Plan area. County Planning and Development Department (P&D) aerial photographs of the Toro Canyon area, taken on June 6, 1997 were evaluated to determine the location of major vegetation types. P&D biologists and experts on aerial photograph interpretation assessed all of the biological information described above and conducted brief field investigations during 1999 and early 2000, as well as during adoption hearings on the Plan later in 2000 and through early 2002, to develop the following general natural habitat classifications and prepare the Plan's Biological Resources and Environmentally Sensitive Habitat Map. The following includes a description of habitat types within the coastal zone portion of the Toro Canyon Planning Area as described in the Toro Canyon Plan.

Southern Coast Live Oak Riparian Forest

Toro Canyon has the largest, contiguous coast live oak riparian forest on the South Coast. Covering roughly 550 acres, the habitat extends down the branches of Toro Creek and Garrapata Creek, spreading out from the creek banks hundreds and sometimes thousands of feet onto the floodplains, connecting as one system between

Lambert and Toro Canyon Roads. The forest is comprised of about 90 percent coast live oak and 10 percent western sycamore. These trees reach about 60 feet in height and have average diameters of 20 to 30 inches. The forest canopy of interlocking branches provides habitat for at least as many as 57 bird species, and perhaps as high as 83 species including three hawk species, as many as four owl species, four woodpecker species, and many others. White-tailed kites are known to roost and nest regularly in this habitat (Holmgren and Rindlaub 1988, Storrer and Philbrick 1998). Due to the dominance of non-natives in the understory at lower elevations there is less diversity of mammals, amphibians and reptiles than in areas higher in the watershed where there is a greater percentage of natives in the understory. The unusual close proximity of the creeks and oaks contributes to the richness of this habitat and high species diversity which was documented in a 1988 survey where more than 60 different animal species and an additional 30 species were expected. Because of the high diversity and because this habitat has been almost completely eliminated in the region, the remaining habitat is extremely important (Holmgren and Rindlaub 1988).

Coast Live Oak Forest / Coast Live Oak Woodland

The Coast Live Oak Forest community ranges from Sonoma County to Carpinteria, reaching its southern limit of distribution in the Plan area (Holland 1986). Where a species or entire community reaches the northern or southern limit of its range, it is significant because it is a place where ecological and evolutionary change can occur. A significant oak forest occurs along Toro Canyon Park Road in and near the park itself. There are approximately 260 acres of mapped oak forest in the community including 100 acres of dense forest on the north slope below Paredon Ridge. Another oak forest, about 16 acres in size, occurs at the northwest corner of East Valley Road and Ladera Lane. A pair of white-tailed kites ("Fully Protected") were believed to be nesting here in 1998. The understory here is predominantly native and well developed; species diversity is high. Abundant oak seedlings are also present here. Other species in this community include lemonade berry, laurel sumac, red berry and fuchsia-flowered gooseberry, poison oak, wild blackberry, wild cucumber, wild rose, melic grass, giant rye, wood mint, and hummingbird sage (Storrer and Philbrick 1998).

Approximately 50 acres of Coast Live Oak Woodland are mapped within the Toro Canyon Planning Area. This community is dominated by coast live oaks occurring on the north slopes of the upper portion of the canyon. This community is slightly less dense than the oak forest and oak riparian forest described above.

NOTE: Coast Live Oak Woodland is combined with Coast Live Oak Forest as one habitat designation on the Biological Resources map.

Chaparral

This community is similar in appearance to scrub oak chaparral, but lacks scrub oak as the dominant shrub species. It includes chamise, manzanita, coastal sage, mountain-lilac, mountain mahogany, coast live oak, toyon, scrub oak, sumac, black sage, sun-rose, deer brush, nightshade and goldenrod (Philbrick 1993). It supports the same animal population as the scrub oak chaparral. Roughly 1,550 acres are vegetated by

chaparral. Where chaparral borders on riparian woodland, an "edge" environment is created that is highly beneficial to birds and other animals (Tierney and Storrer 1990). Toro Canyon has several areas of "edge" communities where chaparral and oak forest or riparian forest meet, creating strong interdependence between the communities. Chaparral is an important source of refuge and forage for mammals which in turn attracts scavengers and predators to this habitat, including bobcat, gray fox, coyote and mule deer (Tierney and Storrer 1990). Typical bird species include wren-tit, California quail, Bewick's wren, and California thrasher. Reptiles such as western fence lizard, southern alligator lizard, striped racer, rattlesnake, and kingsnake are also widely represented in chaparral due to its dense cover and abundant insect and rodent populations. Western pond turtle (California Species of Special Concern) and California newt could occur in the chaparral within 1,000 feet or more from one of the riparian systems.

Coastal Sage Scrub

Coastal sage scrub is another Toro Canyon foothill community. This community, abundant in the County, is usually found on dry and rocky slopes below the chaparral. California sagebrush, several sage species, California buckwheat, coyote bush and California encelia dominate coastal sage scrub. Coastal prickly pear cactus (*Opuntia littoralis*) is an occasional member of this community (Smith 1998). Roughly 38 acres are mapped as being vegetated by coastal sage scrub. As many as 24 species of mammals are known to frequent this which provides protective cover for many small mammals that are important prey for resident carnivores and birds of prey (Little 1997).

Native Grassland

Several patches of native grassland (*Nassella lepida*) have been documented in Toro Canyon, including several acres along upper Toro Canyon Road (800 and 900 blocks) and Arroyo Paredon Creek (Philbrick 1990), and approximately 0.25 acre along the dirt road leading down into Santa Monica Canyon. These are not shown on the Plan ESH Map. Other patches of native grassland are likely in Toro Canyon. Purple needlegrass (*Nassella pulchra*) has also been found in the Pian area along the Hidden Valley Lane area, and in lower Toro Canyon along East Valley Road. Native California grasslands, formerly widespread, have been displaced throughout California by annual European grasses, urbanization, agriculture and fire suppression. Grasslands provide important foraging and breeding habitat for a wide variety of passerine bird species and birds of prey, and often form transitional zones between scrub and woodland habitats. These edge habitats tend to be very high in species diversity.

Streams

Four creeks and their tributaries in Toro Canyon provide important habitat for many species, transport nutrients and sediments, and allow replenishment of sand at downstream beaches. Riparian areas provide dense vegetation and often water to drink. Many species of wildlife that live in the chaparral, oak forests, and coastal sage scrub visit riparian habitats to drink or feed. The creeks in the Plan area also provide a movement corridor that allows larger mammals to travel within residential areas to and

from more isolated sites. Riparian habitats and their associated streams form a central connecting link between all the habitats in the Plan area. These habitats connect the biological communities from the highest elevation chaparral to the sea with a unidirectional flowing water system, one function of which is to carry nutrients through the ecosystem to the benefit of many different species along the way. The health of the streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat, shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost⁴. Writing at the same time as Faber, Bowler asserted that, "[t]here is no question that riparian habitat in southern California is endangered."⁵ In the intervening 13 years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California.

Specific characteristics of each of the four creeks in the Plan area are described below.

Picay Creek. Originating in northwestern Toro Canyon, Picay Creek continues southwest into the Montecito Planning area, feeding into Romero Creek. Coast live oaks, western sycamore, and arroyo willow dominate in this area. Native understory vegetation includes wood fern, snowberry, wild rose, giant rye and mountain mahogany. Where disturbance has occurred previously, weedy understory plants, particularly German ivy dominate. Yellow warbler has been observed in Picay Creek, is a California species of special concern and is a likely breeder along the creek. Other birds occurring in Picay Creek include red-shouldered hawk, black-chinned hummingbird, downy woodpecker, Pacificslope flycatcher, Wilson's warbler and black-headed grosbeak, among others (Storrer and Philbrick 1998).

Toro Creek. Toro Creek is a major wildlife corridor that supports numerous birds, small mammals, and aquatic species. The overstory consists of mature large western sycamore, coast live oak, and occasional Eucalyptus trees, with many sycamore and oak trees exceeding 3 feet in diameter. The oak riparian forest understory is dominated by non-native weedy species, although native species are also present. In the lower portion of the watershed, there are numerous weedy species in the oak riparian forest understory include garden nasturtium, German ivy, greater periwinkle, and castor bean. Native species in the oak riparian forest understory include poison oak, wild blackberry, wild rose, hedge nettle, Douglas' mugwort, white nightshade, and scarlet monkeyflower. These native species are more common in the upper portion of the watershed, above

⁴ Faber, P.A., E. Keller, A. Sands and B.M. Massey. 1989. The ecology of riparian habitats of the southern California coastal region: a community profile. U.S. Fish and Wildlife Service Biological Report 85(7.27) 152pp.

⁵ Bowler, P.A. 1989. Riparian woodland: An endangered habitat in southern California. Pp 80-97 in Schoenherr, A.A. (ed.) Endangered plant communities of southern California. Botanists Special Publication No. 3.

Vista Linda Lane (Stevens, personal communication 2000). The sediments of the creekbed support horsetail, smartweed, and willow herb. The creek aquatic habitat supports green algae and water cress. Birds that nest in Toro Creek include mallard, song sparrow, and lesser goldfinch. Several birds that are listed as Species of Special Concern, including yellow warbler, yellow breasted chat, Allen's hummingbird, and Pacific-slope flycatcher, are known to use Toro Creek during migration and/or nesting periods (Kisner 1998). Red-legged frog (Threatened) could occur in the creek, but they are not likely due to the lack of suitable habitat. Above Vista Linda Lane, Toro Creek has suitable habitat for southwestern pond turtle (State Species of Special Concern). Further south, the creek is probably too steeply incised for the turtle to get out of the channel. No recent records of steelhead trout are known from this stream (Spencer, personal communication 2000).

Garrapata Creek. A well-developed southern oak riparian forest habitat corridor occurs along Garrapata Creek. Vegetation here includes sycamore, live oak and eucalyptus trees with an understory of primarily non-native periwinkle. Existing vegetation provides roosting, foraging, and nesting habitat for several raptor and passerine species and foraging habitat for small animals, although certain segments of the oak riparian forest along Garrapata Creek have been disturbed. The eucalyptus trees along Garrapata Creek provide nesting habitat for red-tailed hawks (Storrer, 1989). The creek is drier than others in the Plan area, probably due to the small size of its watershed. Suitable habitat for red-legged frogs, southwestern pond turtles and steelhead trout is not known to exist in this creek (Spencer, personal communication 2000).

Arroyo Paredon Creek. Arroyo Paredon Creek drains the eastern section of the Plan area, from the chaparral covered hillsides, through Toro Canyon Park, just below the confluence with Oil Canyon Creek, and continues southwest to Highway 101. Arroyo Paredon Creek supports a healthy oak riparian forest including oaks and sycamores in the northern section of the Plan area (Storrer 1998). An endemic form of bitter gooseberry (*Ribes amarum* var. *hofmannii*) has occurred in this creek in the past but was removed by scouring during recent flooding (personal communication, Spencer 2000). South of East Valley Road, the channel has been modified considerably and does not support most animal species typical of riparian habitats. There are no recent records of steelhead trout from this stream. (Spencer, personal communication 2000).

Sandy Beach

The marine interface in Toro Canyon consists of approximately 2 miles of sandy beach habitat on the shoreline of the Pacific Ocean. Shorebirds such as western snowy plover, western sandpiper, marbled godwit, long-billed curlew, and willet, use the local coastline for feeding, particularly during the winter months. Offshore species include the brown pelican and the California least tern; both species are federally-listed endangered species (Tierney 1990).

Wetlands

In addition to the wetlands identified outside of the coastal zone, similar small wetlands may also occur in Toro Canyon which are not detectable on P&D's aerial photographs or have not yet been observed during the field investigations.

Marine Habitat

The marine interface in Toro Canyon consists of approximately two miles of sandy shoreline and rocky intertidal habitat along the Pacific Ocean. Numerous species of shorebirds use the local coastline for feeding, particularly during the winter months. Offshore species include the brown pelican and the California least tern, both listed as endangered (Tierney 1990).

7. Effects of Human Activities and Development

The County's review of the Toro Canyon Planning Area indicates that since the certification of the LCP, development in the Toro Canyon area has raised concerns over issues related to the extent of development northward into the foothills and impacts to biological resources such as the removal of oaks and damage to riparian and other habitats. The habitats of the Toro Canyon area were found to support a high diversity of biological resources including stretches of relatively undisturbed habitat serving as wildlife corridors connecting the mountainous Los Padres National Forest and the Pacific Ocean. This type of connectivity among habitats within an ecosystem and connectivity among ecosystems has been found to be very important for the preservation of species and ecosystem integrity. In a recent statewide report, the California Resources Agency⁶ identified wildlife corridors and habitat connectivity as the top conservation priority. In a letter to governor Gray Davis, sixty leading environmental scientists have endorsed the conclusions of that report.

As with much of Santa Barbara County, the Toro Canyon Plan Area is experiencing increasing pressures for residential as well as agricultural development. The Toro Canyon Plan notes that a significant amount of residential development has been proposed recently for Toro Canyon and surrounding areas. In addition, several ranches in the rural areas have been graded and hillsides have been cultivated into orchards. After agricultural roads are in place, large residential estates have sometimes been developed. Building trends involve new custom homes with structures far larger than existing homes, from 5,000 to as large as 20,000 sq. ft.

Empirical evidence indicates that this intensification of development has resulted in adverse impacts to the area's sensitive resources. In that regard, the County found that (Santa Barbara County, February 2002):

Substantial portions of the Plan area's oak forest, oak riparian forest and chaparral habitat have been lost or severely degraded from agricultural

⁶ California Resources Agency. 2001. Missing Linkages: Restoring Connectivity to the California Landscape. California Wilderness Coalition, Calif. Dept of Parks & Recreation, USGS, San Diego Zoo and The Nature Conservancy. Available at: <http://www.calwild.org/pubs/reports/linkages/index.htm>

development for clearance and the invasion of exotic plant species such as German ivy (Tierney and Storrer 1990). Several rare and sensitive plant species are located within these communities (e.g., Nuttall's scrub oak) which could be lost due to new development and may require a designated state or federal listing in the future. The Plan addresses this planning issue by identifying scrub oak chaparral as ESH. The introduction of aggressive, weedy plant species such as sweet fennel and castor bean have also inhibited reestablishment of chaparral and coastal sage scrub communities. In addition, these communities have been deliberately eliminated to reduce fire hazards. Further development of vacant parcels within mountainous areas and along creeks would fragment and degrade remaining habitats and their ability to support wildlife.

Activities that release oil, grease, pesticides, fertilizers, sewage, animal waste, and other toxic wastes threaten Toro Canyon creeks. Some agricultural activities can create chemical runoff, which flows into creeks, marshes and ocean, with potential impacts to these fragile habitat areas. Hillside grading activities have caused erosion and accumulation of sediment, which has interfered with the reproduction of these habitat areas.

8. Environmentally Sensitive Habitat Mapping

As a result of the updated review of the Plan area as described above, the County found that the much of the habitat within the Toro Canyon Plan area met the definition of ESH consistent with the certified LCP and Coastal Act. In order to facilitate planning, the County updated the ESH map that depicts the approximate location and boundaries of ESH (Exhibit 8). The ESH map is not, however, intended to definitively assign the ESH designation to individual parcels. Conversely, there may be areas that are not mapped that are ESH. These maps will always be subject to revision, refinement and small-scale adjustments, and site-specific ESH determinations may be required in particular cases.

The County identified the biological resources in Toro Canyon from a range of information sources (see Section "Habitats Within Toro Canyon Area") and utilized this information to develop the ESH map based on aerial photograph interpretation and field investigations during 1999 and early 2000, as well as during adoption hearings on the Plan later in 2000 and through early 2002. Within the coastal Toro Canyon Plan Area, most of the ESH is *Southern Coast Live Oak Riparian Forest* with several large areas of *Coast Live Oak* and three areas of *Coastal Sage Scrub*. The ESH Map also identifies two *Monarch Butterfly Habitat* areas and an *Intertidal* ESH area in the southwestern corner of the Plan area. *Wetlands* and *Native Grasslands* have not been mapped in the coastal portion of the Plan area. However, given the potentially small and isolated nature of these habitat types, these resources are more likely to be identified during the application review process.

The County proposes to amend the *Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay Map* and *Environmentally Sensitive Habitat Zoning and Land*

Use Overlays Article II Map to include the updated ESH areas within the Plan area. The Land Use Overlay Map ESH delineations are identical to the Zoning Article II Map and, for convenience, have been combined into one representative ESH Map as shown in the Toro Canyon Plan.

The Coastal Act requires that areas meeting the definition of ESH be protected, as provided by Section 30240. One way that the LCP provides for the protection of ESH is by generally depicting the location of known resources on the ESH Map. However, if the policies protecting ESH were applied only to the areas shown on the map, there would not be complete assurance that all areas meeting the definition of ESH would be protected as required by the Coastal Act. The ESH Map is a valuable source of information on the presence of sensitive resources. The map is a useful tool for identifying many of the habitat areas that meet the definition of ESH. However, in this area, and other areas, mapping is not the definitive designation of ESH. It requires an on-the-ground determination on a site-by-site basis. It is also clear that the ESH Map must be updated periodically to reflect current information.

The ESH Map, as described above, was developed using available information, including field visits. The map accurately depicts the location of ESH areas according to the method used. However, it would be necessary to conduct in-depth site-specific biological surveys of the entire Plan area in order to map ESH down to a site-by-site level. Conducting such surveys would not only be time and cost prohibitive, but also an inefficient method to determine location of ESH. Site-specific biological surveys of the entire area would still only provide an accurate depiction of ESH at one point in time. However, the determination of ESH is not static over time, since certain habitats and/or plant and animal species may become more rare and their protection more critical in the future or scientific study may reveal new information and understanding of the existence, rarity, or importance of certain habitats and species.

Action BIO-TC-1.1 of the Toro Canyon Plan provides the intent and function of the Toro Canyon ESH Map. Action BIO-TC-1.1 lists the identified habitats that shall be presumed to be environmentally sensitive provided that the resource is actually present on the project site during the review process. Action BIO-TC-1.1 specifies that ESH shall be protected and preserved through implementation of the LCP's ESH Overlay District. Additionally, Action BIO-TC-1.1 provides that the scale of the overlay maps precludes complete accuracy in the mapping of habitat areas. In some cases, the precise location of habitat areas is not known or, alternately, the migration of species or discovery of new habitats may result in the designation of new areas. In order to address these issues, the County shall periodically update the boundaries of the designations in order to incorporate new data.

Though BIO-TC-1.1 provides a framework for the function and implementation of the ESH Map, it is vague with regard to implementation of standards for non-mapped ESH. To provide a mapping tool adequate to implement ESH protection provisions consistent with Section 30240 of the Coastal Act, the Commission finds it necessary to clarify that ESH development standards must be implemented if ESH is determined to be present

on a site that was not identified on the ESH Map, as detailed in LUP Modification 69. BIO-TC-1.1 specifies that ESH shall be preserved "on development project sites." This is inconsistent with Coastal Act Section 30240 which requires ESH to be protected against any significant disruption of habitat values and development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to prevent impacts which would significantly degrade those areas. Therefore, to ensure that any adjacent ESH is protected consistent with Section 30240, LUP Modification 69 strikes the reference to the "project site."

DevStd BIO-TC-1.3 specifies that the process for delineating the exact boundary of ESH occurs during an application for development, as specified in the certified LCP. In the coastal zone, the LUP requires projects within 250 of designated ESH (as shown on the ESH Map) to meet the applicable habitat protection policies of the land use plan. Project plans associated with such development projects are required to show the precise location of the habitat and would be subject to inspection by a qualified biologist. Section 35-97.3 of the certified Zoning Ordinance states that if a newly documented ESH is identified, but is not shown on the ESH Map, it shall still be subject to all applicable habitat protection standards.

Action BIO-TC-1.2 states that "the Rural Neighborhoods [RNs] of Torito Road, Serena Park, La Paquita and Ocean Oaks shall be designated on the Toro Canyon Plan ESH Overlay Map as areas of potential biological merit requiring further biological study for ESH delineation during an application for development." Properties subject to this policy are designated as "Areas of Potential Biological Merit" on the ESH Map. The County has indicated that this is intended to clarify that listed habitat types are not categorically ESH but shall be presumed to be "environmentally sensitive," provided that the actual habitat area(s) on a project site meet the criteria for ESH of the Coastal Act. Proposed development on such properties would require site-specific biological assessments to ascertain the actual extent of any ESH on the property and the effects of the proposed development on any ESH areas.

Due to the extent of existing development within the Rural Neighborhoods, the Board of Supervisors directed P&D staff to limit the mapping of oak riparian areas to the stream channel only, under the assumption that during the application for future development the exact boundary of ESH would be determined through specific study and protected consistent with the certified LCP requirements. However, the task of delineating only the stream channels in Torito Road Rural Neighborhood was considered overly difficult to map due to the "extensive tree canopy and the streams' meandering courses through the neighborhood not located in uniform incised channels. Mapping this would require a survey by a civil engineer to account for every segment of the stream path(s) through Torito Road Rural Neighborhood, which is beyond the mapping abilities in P&D and not the general plan level of mapping conducted in previous area and community plans" (Memo from P&D Staff to Board of Supervisors, October 26, 2001). Therefore, the mapping of riparian ESH corridors through Rural Neighborhoods was delineated to include the riparian canopy as evident on aerial photographs and through field check, rather than the stream channels only. To address the Board's concerns, however, a

caveat was added to the ESH Map legend for Areas of Potential Biological Merit stating that: Within these areas, the mapped ESH extent along streams is intended to represent the "Top of Creek Bank" only; the extent of any associated riparian habitat must be determined by site-specific review.

Limiting the designation of ESH to the *top of creek bank only* discounts the importance of the adjacent riparian vegetation and canopy as integral part of the stream ecosystem and habitat. Riparian vegetation associated with streams is a critical factor in protecting the stream channel itself by providing area for infiltration of runoff, minimizing erosion and sedimentation. Additionally, riparian areas are species-rich because of their multi-layered vegetation, available water supply, vegetative cover, and ability to provide central connectivity with other habitats. This habitat type is vital in connecting biological communities from the highest elevation of chaparral to the sea with a unidirectional flowing water system, one function of which is to carry nutrients through the ecosystem to the benefit of many different species along the way. As a result of these factors, riparian areas are an essential refuge and oasis for much of the area's wildlife.

Furthermore, the certified LCP already recognizes the importance of riparian vegetation by including it in the ESH designation. LUP Policy 9-37 provides for protection of streams such that "riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible."

For the above reasons, the Commission finds that ESH is not limited to the creek channel, but rather includes the entire riparian canopy. Therefore, the Commission finds it necessary to revise the ESH Map legend to strike all reference to ESH restriction to top of creek bank, as required in LUP Modification 160 and IP Modification 165.

As recognized by the County, designating the area for further biological study would not substantially differ from the regular review process, as exists outside the RNs. However, it does put property owners on notice that further development of their parcels will require substantial scientific study. There are no other proposed standards that address "Areas of Potential Biological Merit" in the Toro Canyon Plan and all such future development would be subject to the applicable ESH provisions.

The Commission finds that the County's adoption of the "Areas of Significant Biological Merit" concept itself does not provide any conflict with Section 30240 of the Coastal Act. However, the implementation of this concept lacks sufficient specificity to determine the level at which ESH determinations will be made. To ensure that future study adequately identifies any potential ESH consistent with ESH protection required under the Toro Canyon Plan policies, IP Modification 172 (Section 35-194.2 of the Zoning Code) specifies the requirements to be included in the biological analysis. Such as study must include detailed, site-specific information to provide adequate analysis that it is consistent Section 30240.

Torito Road Rural Neighborhood

The County has applied special standards for delineation of ESH within the designated Rural Neighborhoods (RN). As described above, due to the extent of existing development within the Rural Neighborhoods, the Board of Supervisors directed P&D staff to limit the mapping of oak riparian areas to the stream channel only, under the assumption that during the application for future development the exact boundary of ESH would be determined through specific study. However, the task of delineating only the stream channels in Torito Road Rural Neighborhood was considered overly difficult to map due to the "extensive tree canopy and the streams' meandering courses through the neighborhood not located in uniform incised channels.

In a memo from County Planning Staff to the Board of Supervisors, dated October 17, 2001, staff reported on the status of mapping in the Torito Road Rural Neighborhood as follows:

The ESH-TCP Map has been revised to reflect Board direction to only designate the riparian streams as new ESH (West Branch of Toro Canyon Creek and tributaries of East Branch Toro Canyon Creek and Garrapata Creek) beyond the existing designated ESH under the current certified LCP ESH Map (only East Branch Toro Canyon Creek). In addition, the ESH-TCP Map also contains designations of "areas of potential biological merit" as recommended by the Planning Commission and supported by the Board. The revised ESH Map has the following effects:

- * ESH designation along West Branch of Toro Canyon Creek has been refined (Less ESH mapped);***
- * With computer mapping and further field review, the certified ESH mapping of the East Branch of Toro Canyon Creek has been refined and reduced (Less ESH mapped);***
- * Under the revised ESH mapping, four properties in the neighborhood previously defined as "areas of potential biological merit" are not longer subject to the proposed designation.***
- * Within the Rural Neighborhood of La Paquita, 5 parcels were removed from the "areas of biological merit" designation with further refinement of the computer mapping.***

Commission staff has indicated that it will carefully examine the use of "areas of potential biological merit" rather than the ESH designation originally proposed in the Draft Toro Canyon Area Plan.

Further clarification was provided in an October 26, 2001 memo from County staff to Board of Supervisors:

ESH Designation of Oak Riparian Forest in Torito Road Rural Neighborhood:

The Board heard testimony from Mr. Levin, property owner at 2930 Torito Road, that the revised ESH mapping in the Torito Road Rural Neighborhood for the western branch of Toro Canyon Creek continues to designate the riparian habitat rather than just the stream channel as previously directed by the Board on July 9, 2001. Staff attempted to meet the Board direction by revising the ESH mapping in streams in Torito Road to avoid developed areas visible through aerial photography and a site visit. Staff believes that this revised mapping met the intent of the Board and consistency with the County LCP for streams which includes definitions and protection policies for stream and riparian vegetation (definitions for streams, riparian vegetation and stream corridors; and LCP Policies 9-37, 9-38, 9-40 through 9-42). The streams through the Torito Rural Neighborhood are difficult to map due to the extensive tree canopy and the streams' meandering courses through the neighborhood not located in uniform incised channels. Mapping this would require a survey by a civil engineer to account for every segment of the stream path(s) through Torito Road Rural Neighborhood, which is beyond the mapping abilities in P&D and not the general plan level of mapping in previous area and community plans.

At the close of the hearing on October 22, Mr. Levin suggested that a note on the map could provide guidance to identify where the stream is located within Torito Road. After further review of this concept, Staff has included a note on the ESH-TCP Map that describes the intent of the ESH mapped along streams to represent "top of creek bank" only, and the extent of any associated riparian habitat must be determined by site-specific review. In order for the map notation to also be referenced in the text of the Plan, Staff recommends reinserting the "top of creek bank" definition previously in the Plan during the Planning Commission hearings contained within DevStd BIO-TC-2.1.

County staff visited sites within the Torito Road to refine the ESH Map to maintain the edge of the mapped ESH outside the developed building footprints on most properties, to the maximum extent feasible.

As a result, the ESH Map represents the riparian canopy adjacent to the stream corridor (i.e., the ESH designation roughly parallels the first visible residential disturbance as you move away from the creek). However, in the case of the Torito Road RN, the continuous/historic canopy extends in and around the existing residences. Although the riparian habitat was mapped as Southern Coast Live Oak Forest on the ESH Map, the riparian ESH designation was limited to the creek channel as indicated in the legend of the ESH map which limits the actual ESH to the "top of creek bank only." As proposed, the adjacent riparian habitat would only be considered ESH if the resulting biological study proved that it was ESH. However, as detailed in the previous section, the Commission finds that ESH is not limited to the creek channel, but includes the entire riparian canopy and therefore requires the ESH Map legend to strike all reference to ESH restriction to top of creek bank, pursuant to LUP Modification 160 and IP Modification 165.

The Commission recognizes that existing legal residential development exists among the ESH and such development is not ESH. Existing legal development, graded or

disked areas, and those portions of riparian corridors that have been so altered and degraded as to lose most habitat value would not be considered ESH as evidenced in further biological study. Though some of these areas may be shown within the mapped ESH, the Commission finds that the ESH Map is a planning level tool that is not intended to provide a precise delineation on an individual parcel level. In addition, the Commission finds that this designation of ESH will not unduly burden property owners because the sites already require a detailed biological survey to be conducted, and furthermore, as provided in the certified LCP and the proposed Toro Canyon Plan, any development that does not meet the definition of ESH (such as the footprint of legal residential development) shall not be subject to the ESH provisions. The footprint of existing lawfully established residential development (roads, driveways, residences, landscaping and accessory structures), if mapped ESH, shall not be deemed ESH.

Wetland Drainages

During the course of the Toro Canyon ESH review the County identified wetlands north of Padaro Lane, between the railroad tracks and the roadway, and along Santa Claus Lane (see Exhibit 6). These wetlands represent excavated drainages for the purpose of routing runoff downstream. These drainages were found to contain hydrophytic vegetation, thereby meeting the Commission's definition of wetland. The presence of these wetlands was confirmed in the field by Commission biologist, Dr. John Dixon. Dr. Dixon confirmed that these areas did meet wetland criteria but did not meet the definition of an environmentally sensitive habitat area. Therefore, the Commission requires these wetland areas to be mapped as "Wetland (Not ESH)" on the ESH Map as provided in LUP Modification 162 and IP Modification 167. See Section "Flood and Fire Hazard" for policy details on flood control issues.

Butterfly Habitat Loon Point

As shown in Exhibit 5, the existing certified LCP ESH Overlay Map delineates a Butterfly Habitat area in Loon Point adjacent to the southwestern boundary of the Plan Area. However, on the proposed ESH Map, this area is not retained as ESH. The submitted record and analysis is silent as to why this area has specifically been removed from ESH status. The County has indicated that the reason it was not included in the ESH Overlay is because of its lack of incorporation into the *Monarch Butterfly Overwintering Site in Santa Barbara County, California* by Dr. Daniel Meade (November 1999), which describes butterfly habitat areas countywide. Though the study provides scientific study and background on many butterfly habitats throughout the County, the report itself does not suggest that it is comprehensive. Given that this area is already a part of the certified LCP, the County has not provided supporting evidence to indicate that this area specifically does not warrant further protection. The aerial photograph shows that existing tree cover still exists in the general area. A search of the County records indicated that no projects have been permitted through the County in the vicinity of the ESH since the certification of the LCP. Furthermore, if the removal of habitat trees had potentially occurred without benefit of a permit, this would constitute an activity inconsistent with the protection of ESH afforded in the LCP and would require restoration, not the removal of ESH designation. Therefore, the Commission

finds that there is not enough evidence to suggest that the butterfly habitat area shown on the certified map does not merit further protection, and requires the mapped ESH to be retained as described in LUP Modification 161 and IP Modification 166. Though the designation would be retained, the LCP has adequate provisions for areas that are mapped as ESH on the Overlay Map but which do not meet the definition of ESH. Additionally, if further study of the area definitively illustrates that such ESH classification should be removed, the County may update the ESH Map through the LCP amendment process.

Butterfly Habitat Padaro Lane

During the course of the Toro Canyon ESH review, the County staff identified an additional butterfly habitat area at 3197 Padaro Lane, near Beach Club Road, as shown on Exhibit 6. However, this area was not included on the proposed ESH Map submitted as part of this LCP amendment. During the County public review process, Mr. Hromadka, property owner at 3197 Padaro Lane asserted that this property is not ESH because (1) the Calvert report on butterfly habitat (1991) found that the property does not seem sufficiently sheltered to be a high quality site even though monarchs did aggregate there for a short period of time and (2) Dr. Meade's report (1999) found that the subject property had changed dramatically with the location being virtually abandoned in favor of the dense eucalyptus growth found at 3177 Padaro Lane.

The County's inclusion of the butterfly habitat at 3197 Padaro Lane was based upon the Calvert and Meade reports which provided countywide assessments of various monarch butterfly habitat sites. Originally Mr. Hromadka's assertion that the subject property did not contain ESH was based on the fact that the Meade study did not identify his property as butterfly habitat, but rather a site at 3459 Padaro Lane. Dr. Meade verified with County staff that the butterfly habitat site was located at 3197 Padaro Lane, and that the address listed in the report (3459 Padaro Lane) was an error (see Exhibit 10).

County staff conducted further analysis of the site and made the following conclusions (Board of Supervisors Staff report dated January 11, 2002):

Hromadka Property (3197 Padaro Lane): Staff conducted an additional site visit to the Hromadka property on December 14, 2001, per the direction of the Board to verify the type and location of trees associated with the monarch butterfly aggregation documented in the Dr. Mead (1999) and William Calvert (1992) studies. Staff verified that the trees along the east side of the long driveway on the property are a few Monterey pine trees and Arizona ash, exotic broadleaf trees, both described in the above-referenced studies. These trees are located within the fence line of the Hromadka's eastern property line, and consequently appear to staff to be correctly identified on the Hromadka property.

Staff has previously provided your Board with the evidence to support the designation of this transitory aggregation site as ESH (please refer to prior staff reports for the Board's public hearings held on July 9 and November 5,

2001). The property owner, Mr. Donald Hromadka, remains concerned that the proposed ESH designation on his property is not warranted, based upon his interpretation of the findings in the Dr. Meade report describing this aggregation site as virtually abandoned. Staff disagrees with this conclusion since the purpose of the countywide aggregation study by Dr. Meade was the assessment of existing sites and identification of new aggregation sites. This process resulted in the determination that eleven of the documented existing aggregation sites were no longer viable aggregation sites due to loss of trees and/or changed conditions. The habitat on the Hromadka property was not included on this list, but remained identified as an aggregation site, as further explained in Dr. Meade's letter to staff dated June 25, 2001, distributed to Board members at the July 9 and November 5, 2001 public hearings.

The Calvert report identified approximately 100 clusters of butterflies on trees lining the driveway to the house, with an estimated number of butterflies between 5,000 to 8,000 on January 20, 1990 and January 27, 1990. On October 25, 1990 an estimated 2,500 butterflies were observed in this location. On January 6, 1991, the aggregations were no longer observed.

The Meade report is an update of the Calvert report that assessed the monarch population during the 1998-1999 overwintering period from October through March. Dr. Meade reported fifty butterflies in November 1998 and two in October 1998. Though this is clearly a marked difference from the 1990/1991 Calvert monarch count, two important issues give rise to the argument that this area is an ESH. First, the subject property is still functioning as transitory site and has been known to harbor an extensive aggregation site in the past. Second, the precise location of aggregation sites may shift from year to year.

As allowed by the County, the aggregation site on the subject property does not contain substantial numbers of overwintering butterflies. However, the study identifies this type of aggregation site as "transitory," playing an important role in the migratory function of the monarch butterflies, as noted in the management recommendations in the report (Meade, 1999):

Without autumnal and transitory sites it is likely that Monarch butterfly mortality will increase. These habitats provide valuable layover and shelter locations while the butterflies move along the coast. Even though a site may have only 30 butterflies at a give time, the number of butterflies that move through the site during the season may be in the tens-of-thousands. Autumnal aggregation sites directly contribute individuals to the permanent aggregation sites. If new autumnal and transitory sites are found, they should also be protected.

Monarch butterflies are known to be extremely sensitive to changes in environmental factors which may change the overwintering habits of the monarchs. As noted in Dr. Meade's correspondence (June 21, 2001, Exhibit 10), "the precise location of aggregations change from year to year in this area. Even though the site at 3197 held few monarch butterflies during our 1998 and 1999 surveys, it could harbor substantial aggregations in the future." It appears that such a shift occurred from 3197 Padaro

Lane to 3177 Padaro Lane. During Meade's field observations, nearby site located at 3177 Padaro Lane was observed to now harbor the main aggregation of monarch butterflies in the South County, south of Ellwood, with 9,500 reported in November 1998.

The debate appears to hinge on whether this (now) transitory site, experiencing a decline in use, meets the definition of an environmentally sensitive area. Based on the available evidence, such a transitory site, with its known historic aggregations in combination with its proximity to the now larger aggregation site several properties away, still serves as an important habitat to maintain the viability of monarch populations and meets the definition of ESH. Therefore, to be consistent with Section 30240 of the Coastal Act with regard to protection of ESH, the Commission finds it necessary to require the butterfly habitat at 3197 Padaro Lane to be delineated on the ESH Map as described in LUP Modification 161 and IP Modification 166.

Kelp

As shown in Exhibit 5, the existing certified LCP ESH Overlay Map delineates an offshore kelp bed in the vicinity of where Garrapata Creek empties to the ocean. Kelp is recognized in the LUP as ESH with general policy text calling for the County to work with jurisdictional agencies to ensure protection of these resources. The County is proposing to delete this area entirely from the ESH Map because the area is outside of the County's permit jurisdiction. Though this area lies within the retained permit jurisdiction of the Coastal Commission, upstream projects and resultant water quality impacts could adversely impact kelp beds. Therefore, on a planning level, it is desirable to know where these sensitive resources are located, irrespective of jurisdictional boundaries. Therefore, the Commission requires the mapped Kelp ESH to be retained as described in LUP Modification 163 and IP Modification 168.

The Commission therefore finds that the proposed LUP amendments on the ESH Overlay Map as submitted are inconsistent with the requirements of Section 30240 of the Coastal Act unless modified as suggested above. Additionally, the proposed IP ESH Map amendments are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

9. Protection of Environmentally Sensitive Habitat Areas

The Coastal Act requires the protection of environmentally sensitive habitat areas against any significant disruption of habitat values. No development may be permitted within ESH, except for uses that are dependent on the resource. Section 30240 of the Coastal Act further requires that development adjacent to ESH is sited and designed to prevent impacts that would significantly degrade ESH and to be compatible with the continuance of the habitat areas. Section 30240 of the Coastal Act also requires that development adjacent to parks and recreation areas must be sited and designed to prevent impacts.

The existing certified LCP provides general policies which require development adjacent to areas designated on the land use plans or resource maps as ESH, to be regulated to avoid adverse impacts on habitat resources, including measures such as setbacks, buffers, grading and water quality controls. Additionally the LUP and Zoning Ordinance provide specific development standards by ESH type.

The General Land Use provisions in the Toro Canyon Plan provide the basic framework for implementation of the Toro Canyon Plan, including provisions for agricultural, residential, and commercial development in a manner that protects coastal resources consistent with the Coastal Act. Given that this *general* section of the Plan provides a basic approach for implementation of the plan, as well as development and protection of resources, staff notes that this is the appropriate location to call out the overriding requirement for protection of coastal resources, as specified in other sections of the Plan. To ensure that coastal resources, including ESH, are protected consistent with Section 30230, 30231, 30240, and 30250, the Commission requires LUP Modifications 4 and 5 to establish that the scale of development is dependent upon the extent of coastal resources and to specify that ESH and public access take priority over other development standards. Suggested Modification 4 provides that in addition to the requirements of LUP Policy 2-11, all development, including agriculture, shall be scaled to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of driveways; number of accessory structures; size of development envelopes; amount and location of grading; vegetation removal; and night lighting. Suggested Modification 5 states that the protection of ESHA and public access takes priority over other development policies or standards. Where there is any conflict between ESH protection standards and other development standards, the conflict will be resolved by applying those that are most protective of ESH resources or public access.

The Toro Canyon Plan builds off of the framework of the certified LCP by identifying general ESH types and providing a general framework for additional protection. Policy BIO-TC-1 specifies that ESH shall be protected and where appropriate, enhanced. For clarity and consistency with Section 30240 of the Coastal Act, LUP Modification 71 specifies that ESH shall also be protected against significant disruption of habitat values and only uses dependent upon such resources shall be allowed. The protection of ESH afforded through the Toro Canyon Plan is primarily through the designation of ESH (Action BIO-TC-1.1), implementation of ESH buffers (DevStd BIO-TC-1.4), and specific requirement that documented zoning violations that result in degradation of ESH shall require the preparation and implementation of a habitat restoration plan (DevStd BIO-TC-1.5).

Additionally, to ensure that ESH is protected against any significant disruption of habitat values, LUP Modification 77 specifies that accessways and trails located within or adjacent to ESH must be sited to minimize impacts to ESH to the maximum extent feasible. LUP Modification 94 modifies DevStd BIO-TC-5.3 to include provisions that if

any native vegetation is damaged pursuant to permitted temporary construction activities, the subject area will be restored. LUP Modification 79 provides general guidance that new development must be sited and designed to avoid impacts to ESH. In the design and review of new development, alternative projects must be identified and analyzed. If there is no feasible alternative that can avoid or eliminate all significant impacts to resources, then the alternative that results in the fewest or least significant impacts should be selected. Any impacts that cannot be avoided through the implementation of siting or design alternatives must be mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on the project site. In no case can mitigation measures be substituted for implementation of the project alternative that would avoid impacts to ESH.

Land divisions may not be approved if they would result in adverse impacts on coastal resources, such as water quality, wetlands and ESH, which are protected under Sections 30230, 30231, and 30240. A land division cannot be approved unless every new lot created would contain an identified building site that can later be developed consistent with all policies and standards of the LCP. Therefore, the Commission requires LUP Modification 84 to limit land divisions, including certificates of compliance, except for mergers and lot line adjustments for property which includes area within or adjacent to an ESH or parklands only if each new parcel being created could be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.

Furthermore, removal of ESH or ESH buffer for agricultural purposes is inconsistent with Section 30240 of the Coastal Act. Agricultural activities that require the removal of major native vegetation meets the definition of development under the certified LCP. Additionally, agriculture is not a use dependent upon ESH resources. Therefore, to retain consistency with Section 30240 and the provisions of the LCP, the Commission requires LUP Modification 105 which prohibits the conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use. Existing, legally established agricultural uses shall be allowed to continue.

As provided above, DevStd BIO-TC-1.5 provides that zoning violations that degrade ESH shall be restored pursuant to a habitat restoration plan. In concert with this, LUP Modification 78 provides an underlying basis for the protection of ESH resources from unpermitted disturbance such that any area mapped, or otherwise identified through historic evidence, as ESH shall not be deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

ESH Buffers

Siting and designing new development such that an adequate buffer is provided between the outer edge of the ESH and development will minimize adverse impacts to

these habitats. Providing a significant distance between new development and ESH will ensure that removal or thinning of native vegetation for fuel modification will not be required to provide fire protection. Additionally, the transitional "ecotones" between different habitat types are particularly valuable areas with a higher diversity of plants and animals. The provision of adequate buffers around ESH protects ecotones. Natural vegetation buffers also protect riparian habitats by providing area for infiltration of runoff, minimizing erosion and sedimentation. Finally, natural vegetation buffers minimize the spread of invasive exotic vegetation that tends to supplant native species, from developed areas into sensitive resource areas.

DevStd BIO-TC-1.4 proposes the following minimum buffer areas from the boundaries of *Southern Coast Live Oak Riparian Forest* (varies depending upon whether in a Urban or Rural area and presence of riparian vegetation, see discussion below), *Coast Live Oak Forests* (25 ft. from edge of canopy), *Monarch Butterfly Habitat* (50 ft. from habitat), *Native Grassland* (25 feet), *Coastal Sage Scrub* (20 feet), *Scrub Oak Chaparral* (25 feet from edge of canopy), and *Wetlands* (100 feet). Note, scrub oak chaparral was not identified, nor presumed to be present, in the coastal zone portion of the Toro Canyon Plan area.

The proposed 100-foot *Wetland* buffer and 50-foot *Monarch Butterfly Habitat* buffer is consistent with the certified LCP requirements and with past Commission requirements. The certified LCP does not provide specific setbacks for *Native Grassland* or *Coastal Sage Scrub*, but generally requires that development be sited and designed to protect the respective habitat types. Native oak woodland, such as *Coast Live Oak Forest*, is also protected by certified LCP policies, generally, requiring that all land use activities be carried out in a manner as to avoid damage to native oak trees. The proposed buffers were reviewed by Commission biologist and determined to be adequate in the Plan Area, and are consistent with provisions of the certified LCP.

However, there are two major areas of debate with regard to the proposed ESH buffers: (1) the measurement approach for *Southern Coast Live Oak Riparian Forest* ESH buffer and (2) ability to adjust any of these *minimum* buffer areas downward. As proposed, the ESH buffer for *Southern Coast Live Oak Riparian Forest* would be 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from the top of creek bank. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy.

Presently, the setback for streams, including all riparian vegetation, is presumptively 100 feet in rural areas and 50 feet in urban areas. These buffers may be adjusted upward or downward on a case-by-case basis. The buffer is established based on soil type and stability of stream corridors; how surface water filters into the ground; slope of the land on either side of the stream; location of the 100-year floodplain boundary; and consultation with Department of Fish and Game and the Regional Water Quality Control

Board. The LCP is ambiguous as to the exact methodology to determine where the buffer is measured from, though it states that "riparian vegetation shall be protected and shall be included in the buffer." As detailed above, riparian vegetation associated with streams is an integral part of the stream ecosystem and a critical factor in protecting the stream channel itself. Riparian areas are species-rich because of their multi-layered vegetation, available water supply, vegetative cover, and ability to provide central connectivity with other habitats. This habitat type is vital in connecting biological communities from the highest elevation of chaparral to the sea with a unidirectional flowing water system, one function of which is to carry nutrients through the ecosystem to the benefit of many different species along the way. As a result of these factors, riparian areas are an essential refuge and oasis for much of the area's wildlife.

Siting and designing new development such that an adequate buffer is provided between the outer edge of the canopy of riparian vegetation and development will minimize adverse impacts to these habitats. Providing a significant distance between new development and riparian areas will ensure that removal or thinning of native vegetation for fuel modification will not be required to provide fire protection. Additionally, the transitional "ecotones" between different habitat types are particularly valuable areas with a higher diversity of plants and animals. The provision of adequate buffers around streams and riparian corridors protects the ecotone.

Natural vegetation buffers also protect riparian habitats by providing area for infiltration of runoff, minimizing erosion and sedimentation. Finally, buffers minimize the spread of invasive exotic vegetation that tend to supplant native species. The presence of surface or subsurface water throughout the year makes riparian areas especially susceptible to invasion by non-native species that can in many instances out compete native plants. Invasive plant species do not provide the same habitat values as natural riparian areas.

The Commission has consistently found in past actions, that riparian ESH buffers are appropriately measured from the edge of canopy, not from edge of streambank. In this case, the proposed buffer would be 100 feet from top of creek bank if the habitat is limited to the creek channel. If habitat extends beyond the creek bank, which is quite often the case, then the buffer extends 50 feet from the outside edge of the canopy in rural areas. The required buffers are reduced in urban areas and rural neighborhoods. To ensure that these resources are protected through use of an adequate ESH buffer consistent with Section 30240 of the Coastal Act, the Commission finds that LUP Modification 72 is necessary to specify that the ESH buffer from *Southern Coast Live Oak Riparian Forest* and streams shall be measured from the outer edge of the canopy, or top of creek bank, whichever is greater.

The Commission further finds that such minimum ESH buffer standards are necessary to ensure the protection of environmentally sensitive resources and any subsequent reduction to the buffer may adversely impact resources. Therefore, the Commission requires LUP Modification 74 which only allows reductions to the ESH buffers standards if the policies restrict development to such an extent that it would result in the taking of property as described in LUP Modification 79. However, LUP Modification 74 specifies

that variances to other required development standards that are unrelated to resource protection, such as street setbacks, shall be permitted where it is necessary in order to avoid or minimize impacts to ESHA. Consistent with this, the policy text in DevSTd BIO-TC-1.4 has been modified through LUP Modification 72 to strike all reference to the adjustment of minimum ESH buffers on a case-by-case basis.

Additional concerns have been raised in regard to the buffer for native grassland habitat areas. BIO-TC-1.4 only provides buffers from native grasslands that are ¼-acre in size. However buffers serve to move the source of disturbance away from sensitive areas. If native grassland areas are determined to be ESH, then a buffer is needed. The County has stated that the purpose of the ¼-acre threshold was to more or less identify when native grasslands are significant enough to require setback protection. However, the significance of native grassland habitat is not rested upon the size of the habitat. There may be other factors, such as adjacency to other ESH or open space, or presence of sensitive species, where smaller areas of grassland would meet ESH criteria. For these reasons, LUP Modification 72 is required in order to strike text which limits native grassland buffers to area ¼-acre in size.

As proposed, there would be a minimum 20-foot buffer from coastal sage scrub ESH and 25-foot buffer from native grassland ESH. Generally speaking, the Commission recognizes that there may be some minor level of impact to ESH that would not significantly degrade ESH and would be compatible with the continuance of such areas, in a manner consistent with Section 30240 of the Coastal Act. Given the sensitivity of coastal sage scrub and native grassland habitats to disturbance and the transitioning nature of the ESH buffers, the Commission finds it necessary to impose LUP Modification 73 to require, as a condition of approval of new development adjacent to coastal sage scrub and native grassland, the applicant to plant the associated ESH buffer areas with appropriate native plants. The enhancement of the buffers will serve to shield the ESH from adverse impacts associated with residential development such as water quality impacts.

The proposed LCP amendment would allow special provisions to allow the expansion of nonconforming agricultural support structures that are located within ESH or ESH buffer areas. Such an exception provides a lesser degree of resource protection than the existing LCP and is not consistent with Section 30240 of the Coastal Act. Therefore, the Commission requires modification of the TCP Overlay District, through IP Modification 172, to modify subsections 6 of the nonconforming structure policy, striking the text that allows expansion of nonconforming agricultural structures within ESH buffers.

Torito Road and Rural Neighborhoods

The County recognized that there were special circumstances with respect to the Torito Road Rural Neighborhood: (1) the area was subdivided and mostly built-out prior to the Coastal Act, and (2) many of the parcels are entirely within the historic riparian ESH or ESH buffer with no other suitable locations on site that would meet the provisions of the Toro Canyon Plan or LCP. As a result, many of the parcels are highly constrained

against future development, including minor additions or improvements, based on the requirements of the LCP and Toro Canyon Plan.

The Toro Canyon Plan therefore provides for additions to such legal nonconforming development in ESH and ESH buffer when certain standards are met. Policy BIO-TC-5 makes special provisions for development in Existing Developed Rural Neighborhoods in the Plan area due to the existing land subdivision and built environment, where existing structures and related landscaped areas are within the ESH buffer. As proposed, structural additions to existing main and secondary dwelling units are allowed limited encroachment into ESH buffer areas subject to specified development standards. DevStd BIO-TC-5.1 allows existing residential structures in any zone district and existing agricultural support structures on agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas to construct structural additions that conform to the following guidelines: a. Second-story additions shall be considered the preferred design alternative to avoid ground disturbance with limited canopy reduction including limbing of oaks and sycamores; and habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season). b. Where the existing structure is located only partially inside an ESH or ESH buffer area, additions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area. DevStd BIO-TC-5.2 requires development on vacant parcels containing ESH shall be subject to Policy BIO-TC-4 and the applicable General Planning Area ESH regulations. DevStd BIO-TC-5.3 prohibits all construction activity in ESH areas and to the maximum extent feasible shall be avoided in ESH buffer areas.

Section 30240(b) of the Coastal Act requires development in areas adjacent to ESH to be sited and designed to prevent impacts which would significantly degrade such areas, and to be compatible with the continuance of such habitat areas.

As provided above, the County has mapped the riparian habitat by removing development footprints to the extent that they could be identified. In this case, the mapped ESH is roughly contiguous with the line of existing residential development, and the established ESH buffer extends another fifty feet, incorporating significant areas of residential development within the buffer. Because of this line of disturbance, the buffer itself is to some extent artificially created by disturbance. Typically new development is anticipated to be setback to allow the full buffer in order to minimize adverse impacts to these habitats. In this case, that would translate to no development in rural neighborhoods including minor additions. However, given the unique circumstances, there may be potential for some additions or improvements to primary residences within the ESH buffer that would not have adverse impacts to the adjacent resources consistent with 30240(b).

Therefore, the Commission finds that some minor additions and improvements in ESH buffer may be allowed if the site-specific biological study, prepared by a qualified biologist, supports a determination that such development is sited and designed to avoid any adverse impacts the riparian canopy or individual riparian species, including

the oak and sycamore species. Policy BIO-TC-5 is modified pursuant to LUP Modification 91 to allow structural additions or improvements to the existing primary residence where such development is proven not to adversely impact the adjacent riparian species and habitat and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4.

LUP Modification 92 outlines the basic standards for additions or improvements to existing lawfully constructed primary residences in Existing Developed Rural Neighborhoods within ESH buffer or adjacent to ESH as follows: a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance b. Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors and do not extend new areas of fuel modification into ESH areas. c. Additions shall be located on those portions of the structure located outside or away from the ESH. If the subject development cannot be located away from ESH, then the extension of a ground level development footprint shall be denied. d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.

Additionally, LUP Modification 97 allows the reconstruction of lawfully constructed primary residences in Existing Developed Rural Neighborhoods located within ESH buffer areas or adjacent to ESH due to normal wear and tear such as structural pest damage or dry rot, at the same or lesser size (square footage, height, and bulk) in the same footprint. However, if the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4, as modified as suggested. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls. LUP Modification 9 and IP Modification 172 (Section 35-194.4) implement these exceptions for additions and reconstructions to nonconforming primary residences in Rural Neighborhoods.

LUP Modification 93 revises the policy text to clarify that development on *vacant* parcels in Rural Neighborhoods does not have any special rights with regard to ESH. Vacant parcels shall be subject to the takings language where the application of ESH and ESH buffers likely constitute a taking of private property.

The above provisions are intended to allow additions and reconstruction of aging legal residences consistent with the ESH protection policies of the Coastal Act, specifically Section 30240(b). Even with these allowances, there may be very limited expansion potential that can meet such standards. In some cases, the location of residences in and amongst the historic riparian canopy constrain the site to an extent that further expansion or development is not consistent with Section 30240 and site-specific biological studies will not support additional development. Though the understory may be degraded in some areas, the extensive continuous canopy and clusters of historic riparian canopy have retained important resource value, especially with regard to their connection to the stream habitat; and therefore, limits on development and expansion are required to ensure protection of the ESH. It is important to note that any projects within 100 feet of the stream would require a Notice of Final Action appealable to the Coastal Commission, encompassing many of the developments under the tree canopy in Torito Road.

Additionally, LUP Modification 95 encourages the County to support an effort to develop a neighborhood management plan for the riparian oak forest that supports tree recruitment and use of native understory species in the Torito Road Rural Neighborhood. This could be implemented through the LUP Modification 96 requirement that landscape plans prepared for new development adjacent to ESH or ESH buffer in Existing Developed Rural Neighborhood, as determined by a qualified biologist, include the use of locally native understory species and to the maximum extent feasible plant additional riparian trees species to ensure the long-term preservation of the riparian canopy.

Fuel Modification

The majority of Toro Canyon is a high fire hazard zone, which includes all areas north of Foothill Road, and the area between Toro Canyon Road and west of Lambert Road, north of Highway 101. Santa Barbara County Fire Department requires additional measures for development in high fire hazard areas including: access roads width; steepness and turnout requirements; water infrastructure; automatic sprinkler systems, vegetation management plans; and special construction standards.

The Fire Department removes, by hand, brush and overgrowth within approximately 100 feet of structures and along major access roads to reduce fuel loads. This technique reduces the quantity of material that could be burned in a major fire, minimizing the fire's potential severity. This maintenance activity is implemented in lieu of constructing fuel breaks that have historically not been a part of the planning efforts in Toro Canyon (Santa Barbara County, FEIR, 2002).

The Plan proposes to rezone of parcels that would reduce the potential buildout density that could occur without the Plan, thus reducing the potential risk of fire hazard. However, new development would still occur in high fire hazard areas. The Plan proposes development standards including reducing potential foothill development, siting development in areas of lowest fire hazard, providing two routes of ingress and egress, submitting fuel management plans, and the use of fire retardant roof materials,

which would potentially reduce the threat to life and property from fire hazards. Policy FIRE-TC-3 requires that fuel breaks in Toro Canyon be sited and designed to be an effective means of reducing wildland fire hazards and protecting life and property, while also minimizing disruption of biological resources and aesthetic impacts to the maximum extent feasible.

Notwithstanding the need to protect structures from the risk of wildfire, fuel modification results in significant adverse impacts that are in excess of those directly related to the development itself. Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification would vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. Requirements for fuel modification in this area typically extend 100 feet from structures. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels.

Montecito Fire Protection District Standards 93-1, Vegetation Management Standards requires a minimum of 30 feet clearance of all flammable vegetation away from structures and a second zone to reduce or remove inflammable plants up to 100 feet from the structure or to the property line. Clearance of up to 50 feet from structures may be necessary where development exists in relation to slopes. The vegetation management standards specify:

Property owners should clear native brush and other fuels, leaving 20 feet or more between individual specimen trees and large shrubs. Trees in poor or declining condition should be removed first. If remaining trees and shrubs touch, they should be thinned to create openings between the tops of the trees. Young healthy trees and shrubs should be retained over older more mature plants whenever possible. Dead material on both trees and shrubs must be removed. Tall, dry grass species should be moved, cleared by hand, or grazed to insure fire safety. This applies regardless of property lines.

The Toro Canyon Plan provides policies to ensure adequate fire protection and safety for life and property, including provisions for vegetation fuel management. Within the area next to approved structures (typically out to 30 feet from the structure), all native vegetation must be removed and ornamental, low-fuel plants substituted. In the second zone, native vegetation may be removed, widely spaced, or thinned. Native vegetation may be retained if thinned, although particular high-fuel plant species must be removed (Several of the high fuel species are important components of the coastal sage scrub community). In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned.

Obviously, native vegetation that is cleared and replaced with ornamental species, or substantially removed and widely spaced will be lost as habitat and watershed cover. Less obvious is the likelihood that even thinned areas will be greatly reduced in habitat

value. Even where complete clearance of vegetation is not required, the natural habitat can be significantly impacted, and ultimately lost. For instance, in coastal sage scrub habitat, the natural soil coverage of the canopies of individual plants provides shading and reduced soil temperatures. When these plants are thinned, the microclimate of the area will be affected, increasing soil temperatures, which can lead to loss of individual plants and the eventual conversion of the area to a dominance of different non-native plant species. The areas created by thinning between shrubs can be invaded by non-native grasses that will over time out-compete native species.

For example, undisturbed chaparral vegetation on steep slopes in the Plan area and the downslope riparian corridors, ordinarily contains a variety of tree and shrub species with established root systems. Depending on the canopy coverage, these species may be accompanied by understory species of lower profile. The established vegetative cover, including the leaf detritus and other mulch contributed by the native plants, slows rainfall runoff from canyon slopes and staunches silt flows that result from ordinary erosional processes. The native vegetation thereby limits the intrusion of sediments into downslope creeks. Accordingly, disturbed slopes where vegetation is either cleared or thinned are more directly exposed to rainfall runoff that can therefore wash canyon soils into downgradient creeks. The resultant erosion reduces topsoil and steepens slopes, making revegetation increasingly difficult or creating ideal conditions for colonization by invasive, non-native species that supplant the native populations.

The cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Finally, the introduction of artificial irrigation required for fuel modification has impacts on habitat. For example invasive Argentine ants are better adapted to the wetter conditions of irrigated areas than are ant species native to California and tend to out-compete them. The loss of the native ants impacts arthropod species that rely on native ants as a food source.

Fuel modification meets both the Coastal Act and LCP definition of development. DevStd BIO-TC-4.3 allows fuel modification within ESH or ESH buffer areas when consistent with the balancing provisions of the Coastal Act. As more fully described under Section 1.6 "Balancing Policy Conflicts" LUP Modification 88 strikes the text referencing Coastal Act balancing and clarifies that new development which requires fuel modification in association with existing lawful development within ESH or ESH buffer may only be permitted when findings can be made that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible. LUP Modification 89 provides for fuel modification for new development such that: new development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer. The

coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.

Other provisions for fuel modification in the Toro Canyon Plan include DevStd BIO-TC-4.1 which requires development to be sited and designed at a scale that avoids disruption and fragmentation of biological resources in ESH areas, minimizes removal of significant native trees, preserve wildlife corridors, minimizes fugitive lighting in ESH areas, and redirects drainage away from ESH. DevStd BIO-TC-4.2 regulates vegetation fuel management when the disturbed area is greater than ½-acre, in ESH or ESH buffer areas, when it requires removal of significant trees, or when general regulations for repair and maintenance call for additional review. DevStd FIRE-TC-3.2 provides that fuel breaks shall not result in the removal of protected healthy oaks, to the maximum extent feasible. Within fuel breaks, treatment of oak trees shall be limited to limbing the branches up to a height of eight (8) feet, removing dead materials, and mowing the understory. Along access roads and driveways, limbing of branches shall be subject to the vertical clearance requirements of the CSFPD and MFPD. Where protected oaks have multiple trunks, all trunks shall be preserved

Policy Fire-TC-2 states that fire hazards in the Toro Canyon Planning Area shall be minimized in order to reduce the cost of/need for increased fire protection services while protecting the natural resources in undeveloped areas. However, the Commission finds that sensitive natural resources must be protected in all areas, not limited to pristine undeveloped areas. Therefore, LUP Modification 19 proposes to strike the text which focuses protection in undeveloped areas only.

Policy Fire-TC-1 requires coordination with the Fire Protection Districts to maintain and improve fire prevention and protection for the residents. However, staff notes, that it is crucial for this type of coordination to include an approach to protect sensitive habitat and protected trees to the maximum extent feasible. Therefore LUP Modification 18 articulates that minimizing impacts to resources is an important factor in addition to the concerns for life and safety. DevStd Fire-TC-2.2 provides general siting and design guidance to minimize exposure to fire hazards and reduce the need for grading and clearance of native vegetation. As described above, the effects of thinning vegetation have adverse ecosystem impacts. Therefore, to protect resources to the maximum extent feasible, LUP Modification 20 first clarifies that new development that should be sited to avoid impacts to resources and secondly, among the other measures, fuel modification such as thinning and limbing of trees, should also be minimized to the maximum extent feasible.

Stream Protection

In addition to protection as ESH under Section 30240 of the Coastal Act, streams and associated riparian habitat are protected under additional Coastal Act policies in order to maintain the biological productivity and quality of coastal waters. Section 30231

requires that natural vegetation buffer areas that protect riparian habitats be maintained, and that the alteration of natural streams be minimized. Notwithstanding the stream protection provisions, the Coastal Act recognizes that in a few limited circumstances, it may be necessary to alter a stream. Section 30236 limits channelizations, dams, or other substantial alterations of rivers and streams to only three purposes: necessary water supply projects; protection of existing structures in the floodplain where there is no feasible alternative; or improvement of fish and wildlife habitat.

Siting and designing new development such that an adequate buffer is provided between the outer edge of the canopy of riparian vegetation and development will minimize adverse impacts to these habitats. Due to the importance of importance of adjacent riparian corridor habitat, LUP Modification 73 requires the ESH buffer for Southern Coast Live Oak Forest and Stream ESH to be measured from the outer edge of the canopy of riparian vegetation as discussed in Section "ESH Buffers" above. Providing a significant distance between new development and riparian areas will ensure that removal or thinning of native vegetation for fuel modification will not be required to provide fire protection. Additionally, the transitional "ecotones" between different habitat types are particularly valuable areas with a higher diversity of plants and animals. The provision of adequate buffers around streams and riparian corridors protects the ecotone.

Natural vegetation buffers also protect riparian habitats by providing area for infiltration of runoff, minimizing erosion and sedimentation. Finally, buffers minimize the spread of invasive exotic vegetation that tend to supplant native species. The presence of surface or subsurface water throughout the year makes riparian areas especially susceptible to invasion by non-native species that can in many instances out compete native plants. Invasive plant species do not provide the same habitat values as natural riparian areas.

Natural drainage ways provide treatment, infiltration, and attenuation of runoff, all of which are mechanisms that protect and enhance coastal water quality. According to a federal NPS pollution guidance document⁷, the preservation of natural drainage features is important because "...riparian areas, wetlands, and vegetative buffers serve as filters and trap sediments, nutrients, and chemical pollutants... [and] may also have the added benefit of providing long-term pollutant removal capabilities without the comparatively high costs usually associated with structural controls." (*Justification of Watershed Protection Management Measure*, from the "g-Guidance" published by NOAA and the EPA)

Surface water runoff enters natural drainages by sheet flow, is slowed by the vegetation, and may be filtered as sediments fall out of suspension and plants phytoremediate pollutants. Runoff may also be infiltrated into the soil and treated as the water moves through the substrate. The flow of water through natural hydrologic

⁷ Section 6217(g) of Coastal Zone Act Reauthorization Amendments, 16 U.S.C. § 1455b(g), requires NOAA and the EPA, in consultation with other federal agencies, to publish and periodically revise a NPS pollution Management Measures Guidance document known as the "g-Guidance." California's NPS Plan is based on this document.

features also helps maintain physical parameters of water, including temperature, dissolved oxygen, and salinity. Accordingly, substantially grading or filling natural drainages would result in the loss of these important water quality functions.

In addition to the buffers, Policy BIO-TC-11 provides a general policy basis for protection of streams as ESH. BIO-TC-11 provides that natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts. Policy BIO-TC-11 further provides that "Hardbank" channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan. The Coastal Act outlines specific requirements for stream alteration under Section 30236 wherein flood control projects are allowed only as necessary to protect public safety or existing development, and when such projects are the least damaging alternative.

To ensure that Section 30236 requirements are met, LUP Modification 99 prohibits stream alteration except as specifically allowed for water, flood control, or fish enhancement projects as described in LUP Modification 113 (see below) or as allowed pursuant to a takings claim as described in LUP Modification 79 (see Section "Economically Viable Use"). Furthermore, the reference to hardbank channelization is deleted as this issue is addressed more appropriately in the flood control modifications LUP 113 and 114.

DevStd BIO-TC-11.1 requires that ESH buffer for Southern Coast Live Oak Riparian Forest be provided on grading and building plans. BIO-TC-11.1 also regulates lighting adjacent to riparian areas, drainage, and native vegetation removal. LUP Modification 100 deletes the language regarding drainage because it conflicts with the water quality provisions as outlined in the "Water Quality" section of this staff report. LUP Modification 100 also strikes the sentence "all ground disturbance and native vegetation removal shall be minimized." Though ground disturbance and native vegetation removal in the Southern Coast Live Oak Riparian Forest ESH should be minimized to the maximum extent feasible, the statement in this location is confusing. Southern Coast Live Oak Riparian Forest ESH is subject to the applicable ESH provisions, and removal of this habitat for new development can only occur when approved pursuant to takings provisions as described in LUP Modification 79. Therefore to ensure that the ESH protection provisions are not inadvertently reduced, the reference to removal of native vegetation should be deleted.

Four major creeks originate in the Santa Ynez Mountains and flow southward through the Toro Canyon Plan area: Picay Creek, Toro Creek (east and west branches), Garrapata Creek, and Arroyo Paredon Creek. Major flood control maintenance activities occur annually in these areas, including dredging of sediment and removal and spraying of creek vegetation. The purpose of annual maintenance is to remove

obstructions that could either cause flooding, significant erosion, or plugging of downstream culverts and bridges. The flood control provisions of the Toro Canyon Plan provide direction with regard to alteration of streams, disturbance to riparian habitat, and erosion.

To minimize future need for any stream alterations to protect structures from flood hazards, LUP Modification 107 prohibits new buildings in areas that are floodprone. Additionally, ESHA buffers around streams and riparian areas, as described previously, will serve to site new development a significant distance from any stream, providing protection from flooding. The LCP requires a buffer that is 50 feet in urban and rural neighborhoods and 100 feet in rural areas.

Policy FLD-TC-4 provides that development except for flood control activities shall avoid alteration of creek banks, channel inverts, and channel bottoms in their natural state, and that revegetation and restoration of riparian habitat shall be encouraged. This implies approval of all manner of Flood Control District activities. However, as mentioned above, under Coastal Act Section 30236, flood control projects are allowed only as necessary to protect public safety or existing development, and when such projects are the least damaging alternative. Coastal Act Section 30236 requirements have been added as a separate policy through LUP Modification 113 to allow channelizations or other substantial alterations of streams and desiltation/dredging projects only when certain conditions are met, including confirmation that there is an overriding need to protect public safety or existing structures and that the proposed project is the only feasible least damaging alternative. Additionally, such a project would minimize impacts to coastal resources in all other respects and provide mitigation of impacts. FLD-TC-4 must then be modified to reference the provisions in Modification 113 so that flood control activities are limited to those projects meeting these specific requirements. This cross-referencing is implemented through LUP Modifications 110 and 122.

DevStd FLD-TC-2.1 includes provisions to develop check dams or other erosion control features in the streams. Again, as described above, even necessary development that would alter the stream in such a manner would have to meet the tests for feasibility and mitigation as outlined in LUP Modification 113. Therefore, FLD-TC-2.1 has been modified, through suggested LUP Modification 117, to delete the specific requirement for erosion control measures as deemed appropriate by Flood Control and Planning. FLD-TC-2.1 is modified to allow, generally, Best Management Practices with new development to minimize erosion. This allows flexibility if there is a less damaging alternative. Furthermore, the deletion of the specific erosion control measure language allows the policy in LUP Modification 113 to set the overall requirements for stream altering development.

Additionally, the Commission recognizes that less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) are preferable, less damaging alternatives consistent with Section 30236 and therefore preferred for flood protection over "hard" solutions such as concrete or riprap channels. This requirement is

described in LUP Modification 113 and further expanded upon in LUP Modification 114 for existing flood hazards.

Policy FLD-TC-3 and DevStd FLD-TC-2.1 address the interaction of flood control projects and impact to the riparian environment. Policy FLD-TC-3 states that flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety, and additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. DevStd FLD-TC-2.1 specifies that erosion control measures should be designed to avoid impacts to riparian vegetation to the maximum extent feasible.

The Commission finds that the Policy FLD-TC-3 is not protective of stream and riparian resources by "seeking to minimize disturbance." Though the Coastal Act recognizes the need to minimize risks from hazards, it also recognizes the importance of protecting environmentally sensitive resources. All flood control activities within streams must be shown to be the *most* protective feasible alternative. Therefore, LUP Modification 121 strikes text in recognition that LUP Modification 113 provides criteria for when appropriate flood control measures may be implemented. In addition, in recognition the protection allowed ESH, LUP Modification 115 requires that such flood control measures not diminish or change stream capacity, percolation rates or habitat values. "Hardbank" measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible. Less intrusive measures shall include, but not be limited to biostructures, vegetation, and soil bioengineering. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a Restoration Plan.

Additionally, FLD-TC-4.1 allows for restoration of creek banks to be incorporated into landscape plans for new development to the maximum extent feasible. This includes review by the Flood Control District for consistency with Floodplain Management Ordinance #3898 and for consistency with current floodplain management and environmental protection goals. LUP Modifications 111 and 123 require deletion of the consistency analysis because Ordinance #3898 is a non-certified document that may change without benefit of an LCP amendment, and the text regarding floodplain and environmental goals is too vague. The County has not specified to what extent projects would be judged against these non-specific goals. Similarly, DevStd BIO-TC-1.4 implies that the Flood Control District is the agency responsible for approving restoration plans. However, while the Flood Control District may have review authority, the approval of development and conditions is implemented by the Planning Department. To clarify responsibility, LUP Modification 72 has been revised to indicate that the Flood Control District is a consulting agency during review of habitat restoration plans.

Recognizing that road crossings through stream channels have unavoidable impacts, LUP Modification 131 requires that new, or replacement stream crossings, must be via

bridge. This includes projects where Arizona crossings would be upgraded; however, as allowed under the existing LCP road crossings damaged due to calamity (e.g., flooding) would be allowed to be rebuilt in the same manner. Further, the suggested modification requires water quality BMPs and prohibits new roads, bridges, culverts, and outfalls if they would cause or contribute to streambank or hillside erosion.

Specifically, Action FLD-TC-1.5 directs further investigation of drainage issues along the southeastern portion of Padaro Lane. In order to address these issues, the county will initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. FLD-TC-1.5 specifically allows for local drainageways and culverts to be cleared annually, as necessary. However, as mentioned above, flood control projects and stream alteration are only allowed under certain circumstances as identified in Section 30236. Therefore, without knowing what drainageways and culverts would be cleared annually, such determinations must be determined on a case-by-case basis consistent with the requirements. Additionally, the FLD-TC-1.5 implies that further study would rely heavily on the preliminary engineering study previously prepared for the area. A copy of this study was not readily available for staff review. However, if as implied, the engineering analysis is a technical feasibility study and does not include environmental analysis alternatives, environmental review of the alternatives would be require individual review for consistency with the Coastal Act and LCP requirements. Therefore, LUP Modification 116 reduces emphasis on reliance on just the engineering study and requires that alternatives for further investigation consider less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) solutions as the primary means of defense against flood hazard and shall require maximum mitigation for all impacts to wetland, riparian, or other native trees and habitat.

Protected Trees

The LCP provides standards for tree removal to preserve healthy trees that are important for the protection of habitat areas and the scenic and visual quality of the County. These trees are important coastal resources. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. Trees that are part of a woodland, savannah, or riparian ESH would be protected from removal or other development impacts. However, due to past development impacts, or historical land uses like agriculture, individual trees exist that may not be part of a larger intact habitat area. Additionally, development may be permitted within ESH in order to avoid a taking of private property, as discussed above. In such cases, native trees should still be protected. Finally, native trees that are not part of a larger, intact habitat may nonetheless provide nesting or roosting habitat for raptors and other birds that are rare, threatened, endangered, fully protected, or species of special concern. It is critical to such species that the tree habitat be protected. In past permit actions, the Commission has required that the removal of

native trees, particularly oak trees, or encroachment of structures into the root zone be avoided unless there is no feasible alternative for siting development.

As provided above, native and non-native protected trees require protection. DevStd BIO-TC 13.1 provides basic principle for protection by protecting the general area around the driplines from further disturbance. To provide a more adequate level of specificity with regard to further protection, LUP Modification 102 elucidates that the protected area be a *minimum* rather than *general* setback of six feet outside of tree driplines, unless there is no other feasible alternative. This is consistent with the Commission's past requirements for development to be setback from the dripline of oak trees, for example.

LUP Modification 103 requires that mitigation be provided where the removal of trees cannot be avoided by any feasible project alternative. The Commission has found, through permit actions, that replacement trees, particularly oak trees, are most successfully established when the trees are seedlings or acorns. Many factors, over the life of the restoration, can result in the death of the replacement trees. In order to ensure that adequate replacement is eventually reached, it is necessary to provide a replacement ratio of at least ten replacement trees for every tree removed or impacted to account for the mortality of some of the replacement trees.

Policy BIO-TC-14 further provides that non-native trees shall be protected where they provide known raptor nesting or major and recurrent roosting sites. It is unclear when and how a raptor nesting site is "known." It is uncertain if this would require a specific biological survey or anecdotal knowledge or other means of recognition. This vagueness undermines the implementation value of the protection of such resources. Therefore to recognize *any* and *all* raptor nesting habitat, LUP Modification 104 strikes the word known.

Habitat Restoration and Landscaping Requirements

Invasive plant species, by definition, supplant native plants, and subsequently, lead to the degradation of natural habitats. The presence of surface or subsurface water throughout the year makes riparian areas especially susceptible to invasion by non-native species that can in many instances out compete native plants. Invasive plant species do not provide the same habitat values as natural riparian areas. Policy BIO-TC-2 requires landscaping to use "appropriate plant species to ensure compatibility with and preservation of ESH." The Commission finds that invasive plants are not appropriate in a rural setting such as Toro Canyon, especially given the large expanse of habitat types, and the large riparian corridors that are able to transport nutrients and seeds to downstream areas. Therefore to protect ESH consistent with Section 30240 of the Coastal Act, the Commission requires all policies, development standards, and guidelines to indicate that no invasive plants will be allowed in the Toro Canyon Plan area as provided in LUP Modifications 81, 82, and 154.

In cases where habitat enhancement or habitat restoration is proposed in ESH or ESH buffer areas, the Commission finds that ESH may be adversely impacted if such an

activity is not carried out in a manner respectful of the environmental resource constraints. Therefore the Commission requires LUP Modification 83 to direct habitat restoration and/or invasive plant removal within ESH and ESH buffer areas to be conducted outside of the breeding/nesting season of any sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site specific application with no migration to the surrounding environment.

Exterior Lighting

Wildlife can be impacted by artificial night lighting associated with new development. In order to protect habitat values as required by Section 30240 of the Coastal Act, the Commission has found, in permit actions, that it is necessary to consider alternatives for siting and designing development in order to ensure that the alternative chosen is the one that minimizes impacts to ESHA. Therefore, LUP Modification 76 requires exterior night lighting to be minimized, shielded and directed away from ESH wherever lighting associated with development adjacent to ESH cannot be avoided. LUP Modification 143 further prohibits for high intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH.

Use of Chemicals In and Adjacent to ESH

The use of insecticides, herbicides, or any toxic chemical substances has the potential to significantly degrade ESH. The use of pesticides and/or herbicides by agriculturalists for production, the Forest Service for firebreak maintenance, the County for mosquito abatement, and County Flood Control for creek capacity maintenance pose potential adverse effects to both agriculture and downstream coastal waters. During severe floods herbicide residues carried in overland flows can damage orchard crops and can end up as chemical residues in sediment deposits.

The potential impacts include the reduction of biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, the reduction of optimum populations of marine organisms and adverse impacts on human health (see the "Water Quality " Section of this report for specific details). To ensure that coastal resources, including ESH, are protected consistent with Section 30230, 30231, 30240, the Commission finds it necessary to impose LUP Modifications 85, 86, and 87 which limit use of chemical substances within and adjacent to ESH to the maximum extent feasible. Where no other feasible alternative exists, the timing of applications must be carefully controlled to ensure ESH is protected.

The Commission therefore finds that the proposed LUP amendments with regard to the protection of ESH submitted are inconsistent with the requirements of Sections 30230, 30231, 30236, and 30240 of the Coastal Act unless modified as suggested above.

Additionally, the proposed ESH protection implementation amendments are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

10. Economically Viable Use

There may be cases where the majority or the entirety of a legal parcel contains habitat that is environmentally sensitive habitat area. Under Section 30240 of the Coastal act, no development, with the exception of a resource-dependent use, could be permitted on such a site. However, Section 30240 must be applied in concert with other Coastal Act requirements, particularly Section 30010. This section states that:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Thus if strict application of the ESHA protection requirements of Section 30240 would cause a taking of property, then the policy must be applied in a manner that would avoid this result. The U.S. Supreme Court has held that, in some situations, a permit decision may constitute a categorical or "per se" taking under *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1005. According to *Lucas*, if a permit decision denies all economically viable use of property by rendering it "valueless", the decision constitutes a taking unless the denial of all economic use was permitted by a "background principle" of state real property law. Background principles are those state law rules that inhere in the title to the property sold to be developed and that would preclude the proposed use, such as the common law nuisance doctrine.

Second, if the permit decision does not constitute a taking under *Lucas*, a court may consider whether the permit decision would constitute a taking under the ad hoc inquiry stated in cases such as *Penn Central Transp. Co. v. New York City* (1978) 438 U. S. 104, 123-125. This inquiry generally requires an examination into factors such as the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations, as well as any background principles of property law identified in *Lucas* that would allow prohibition of the proposed use.

To alleviate this concern, LUP Modification 79 provides a mechanism to determine through a formal economic viability determination whether the application of the policies and standards contained in the LCP regarding use of property designated as Environmentally Sensitive Habitat area would likely constitute a taking of private property. If so, a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided that such use is

consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination. LUP Modification 79 provides that such a project would have to be the alternative that would result in the fewest or least significant impacts, and any impacts to ESH that could not be avoided through the implementation of siting and design alternatives would be mitigated to the maximum extent feasible, with priority given to on-site mitigation.

LUP Modification 80 makes clear that an economic viable use determination, for the purposes stated above, requires the applicant to provide specific information to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined. This economic viability determination is implemented through LUP Modification 172 which outlines information requirements to complete an economic viability study in Sec. 35-194.6 and 35-194.7 of the Toro Canyon Plan Overlay.

The Commission therefore finds that the proposed LUP amendments with regard to the protection of ESH submitted are inconsistent with the requirements of Section 30240 of the Coastal Act unless modified as suggested above. Additionally, the proposed ESH protection implementation amendments are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

H. PUBLIC ACCESS

1. Coastal Act Policies

Coastal Act Section 30210 states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212(a) states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Coastal Act Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or 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.

Coastal Act Section 30214 states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute

means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

2. Existing LUP Policies

Policy 2-7:

Consistent with PRC Section 30604(e), the County may deny a project for a period of up to one year if the Board of Supervisors finds that 1) a public agency has been specifically authorized to acquire the property on which the development is located, and 2) there are funds available or funds could reasonably be expected to be made available within one year for such acquisition.

Policy 3-1:

Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.

Policy 3-2:

Revetments, groins, cliff retaining walls, pipelines and outfalls, and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and so as not to block lateral beach access.

Policy 3-3:

To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the parcel by the County.

Policy 7-1:

The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. At a minimum, County actions shall include:

a. Initiating legal action to acquire easements to beaches and access corridors for which prescriptive rights exist consistent with the availability of staff and funds.

b. Accepting offers of dedication which will increase opportunities for public access and recreation consistent with the County's ability to assume liability and maintenance costs.

c. Actively seeking other public or private agencies to accept offers of dedications, having them assume liability and maintenance responsibilities, and allowing such agencies to initiate legal action to pursue beach access.

Policy 7-2:

For all development between the first public road and the ocean granting of an easement to allow vertical access to the mean high tide line shall be mandatory unless:

a. Another more suitable public access corridor is available or proposed by the Land Use Plan within a reasonable distance of the site measured along the shoreline, or

b. Access at the site would result in unmitigable adverse impacts on areas designated as Habitat Areas' by the Land Use Plan or

c. Findings are made, consistent with PRC § 30212 of the Coastal Act, that access is inconsistent with public safety or military security needs, or that agriculture would be adversely affected, or

d. The lot is too narrow to allow for an adequate vertical access corridor without adversely affecting the privacy of the property owner. In no case, however, shall development interfere with the public right of access to the sea where acquired through use unless an equivalent access to the same beach area is guaranteed.

The County may also require the applicant to improve the access corridor and provide bike racks, signs, parking, etc.

Policy 7-3:

For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, all beach seaward of the base of the bluff shall be dedicated. In coastal areas where the bluffs are less than five feet, the area of the easement to be granted shall be determined by the County based on findings reflecting historic use, existing and future public recreational needs and coastal resource protection. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the lateral easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other

obstructions that may limit public lateral access shall be removed as a condition of development approval.

Policy 7-7:

During the zoning and implementation phase of the LCP, the County shall establish a schedule for acquisition of areas proposed for new or expanded access and/or recreation. The schedule shall designate responsible agencies, time frame, and methods for implementing all access and recreation proposals set forth in this plan.

Policy 7-8:

Increased opportunities for beach access shall be provided in the Carpinteria planning area.

Implementing Actions:

a) The County shall accept and open for use the vertical easements offered in connection with developments on Padaro Lane (APN 5-400-35) and Beach Club Drive (APN 5-390-23). A footpath from the public road to the beach, bike racks, and trash cans shall be provided and maintained.

b) Dedication of a vertical access easement and construction of a trail to the beach shall be required of any development on the easterly end of the Carpinteria bluffs (refer to Section 4.2.3).

Policy 7-25:

Easements for trails shall be required as a condition of project approval for that portion of the trail crossing the parcel upon which the project is proposed.

Policy 7-26:

All proposed trails for the coastal zone shall be incorporated into the County's Master Plans for hiking, biking, and equestrian trails.

Policy 9-32 Rocky Point and Intertidal Areas:

Shoreline structures, including piers, groins, breakwaters, drainages, and seawalls, and pipelines, should be sited or routed to avoid significant rocky points and intertidal areas.

3. Existing IP/CZO Policies

Sec. 35-61. Development Standards: Beach Development.

1. To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the lot by the County.

2. For all new development between the first public road and the ocean, granting of an easement to allow vertical access to the mean high tide line shall be mandatory unless:

a. Another more suitable public access corridor is available or proposed by the Land Use Plan within a reasonable distance of the site measured along the shoreline, or

b. Access at the site would result in unmitigable adverse impacts on areas designated as Habitat Areas' by the Land Use Plan or

c. Findings are made, consistent with PRC § 30212 of the Coastal Act, that access is inconsistent with public safety or military security needs, or that agriculture would be adversely affected, or

d. The lot is too narrow to allow for an adequate vertical access corridor without adversely affecting the privacy of the property owner. In no case, however, shall development interfere with the public right of access to the sea where acquired through use unless an equivalent access to the same beach area is guaranteed. The County may also require the applicant to improve the access corridor and provide bike racks, signs, parking, etc. This policy shall not apply to development excluded from the public access requirements of the Coastal Act by PRC § 30212 or to development incidental to an existing use on the site.

3. For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, the lateral easement shall include all beach seaward of the base of the bluff. In coastal areas where the bluffs are less than five feet, the area of the easement to be granted shall be determined by the County based on findings reflecting historic use, existing and future public recreational needs and coastal resource protection. At a minimum, the lateral easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the lateral easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval. This policy shall not apply to development excluded from the public access requirements of the Coastal Act by PRC § 30212 or to development incidental to an existing use on the site.

Sec. 35-63. Development Standards: Coastal Trails.

Easements for trails shown on the Santa Barbara County Comprehensive Plan Parks, Recreation and Trails (non-motorized) maps, shall be required as a condition of project approval for that portion of the trail crossing the lot upon which the project is proposed.

Sec. 35-97.9. ESH Environmentally Sensitive Overlay District: Development Standards for Wetland Habitats.

...2. Dredge spoils shall not be deposited permanently in areas subject to tidal influence or in areas where public access would be significantly adversely affected. When feasible, spoils should be deposited in the littoral drift, except when contaminants would adversely affect water quality or marine habitats, or on the beach.

...5. Light recreation such as bird-watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.

...8. No unauthorized vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses.

Sec. 35-97.15. ESH Environmentally Sensitive Overlay District: Development Standards for Rocky Points and Intertidal Habitats.

1. In order to prevent destruction of organisms which thrive in intertidal areas, no unauthorized vehicles shall be allowed on beaches adjacent to intertidal areas.

2. Only light recreational uses shall be permitted on public beaches which include or are adjacent to rocky points or intertidal areas.

3. Shoreline structures, including piers, groins, breakwaters, drainages, seawalls, and pipelines, should be sited or routed to avoid significant rocky points and intertidal areas.

Sec. 35-97.17. ESH Environmentally Sensitive Overlay District: Development Standards for Seabirds Nesting and Roosting Site Habitats.

Recreational activities near areas used for roosting and nesting shall be controlled to avoid disturbance to seabird populations, particularly during nesting season.

4. General Discussion

Coastal access is generally viewed as an issue of physical supply, and includes lateral access (access along a beach), vertical access (access from an upland street, parking area, bluff or public park to the beach), coastal blufftop trails, and upland trails that lead to the shore or traverse inland parklands within the coastal zone. Inland parks provide significant access and recreation opportunities in the Plan area, and are as important to coastal access as shoreline accessways.

The public already possesses ownership interests in tidelands or those lands below the mean high tide line. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act policies requiring both the implementation of a public access program and the minimization of impacts to access and the provision of access, where applicable, through the regulation of development. To carry out the requirement of Section 4 of Article X of the California Constitution, PRC Section 30210 provides that maximum access and recreational opportunities be

provided consistent with public safety, public rights, private property rights, and natural resource protection. PRC Section 30211 requires that development not interfere with the public's right of access to the sea with certain exceptions. Furthermore, PRC Section 30212 requires that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects with certain exceptions such as public safety, military security, resource protection, and where adequate access exists nearby. Certain minor types of development would also not require the provision of access. Finally, PRC Section 30214 provides that the implementation of the public access policies take into account the need to regulate the time, place, and manner of public access depending of such circumstances as topographic and geologic characteristics, the need to protect natural resources, proximity to adjacent residential uses etc.

LCP policies 7-1 and 7-2 highlight the County's duty to "protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline" and that some development projects may be required to allow vertical access to the mean high tide line. Policy 7-3 states that for new development between the first public road and the ocean, the granting of lateral easements shall be mandatory. Policy 7-8 requires the County to accept and open the vertical easement offered in associate with development on Padaro Lane.

5. Public Access

The Toro Canyon Plan proposes several policies and actions that would develop public beach access (both vertical and lateral access to be developed, preserved, and maintained) at Padaro Lane and Santa Claus Lane. Attempts to render these easements functional are ongoing and would be subject to the policies and action of the Toro Canyon Plan. No dedicated open public beach access exists along Toro Canyon's 2 miles of beach frontage. Loon Point, immediately west of the Toro Canyon Planning Area boundary, provides the only open public beach access in close proximity to Toro Canyon. The nearest dedicated downcoast access is at Carpinteria City Beach. There are however two major informal accessways in the Plan Area, Padaro Lane and Santa Claus Lane, these are discussed below.

Padaro Lane

The 1.5 miles of sandy beach frontage west of Santa Claus Lane beaches are obstructed at all but the lowest tides by an artificial headland consisting of single-family homes surrounded by a major seawall. Many of the homes in Padaro Lane area were granted permits to build under the condition that access to the beach would be provided to the public via vertical easements to and/or lateral easements along the beach. The County is currently attempting to render these dedicated easements functional. For formal access to become available at Padaro Lane, the one existing legal public vertical easement within the Padaro Lane area to the beach would need to be formally opened. The County has accepted the Offer-to-Dedicate a vertical easement on Padaro Lane, but it has not been opened as a result of ongoing litigation.

Several discontinuous informal parking spaces exist on the north side of the road along Padaro Lane between Gradate Creek and Toro Creek. Parking on the shoulder north of the road is extremely constrained west of Garrapata Creek. Traveling westward, the shoulder widens and many parallel and perpendicular parking space areas approximately 15 feet wide exist. Approximately 15-20 spaces are developed between the residences of 3200 to 3300 Padaro Lane.

Action PRT-TC-1.3 makes provisions for the County to pursue, to the extent feasible, developing a public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. The County shall include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and other appropriate features for the beach access. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.

However, the proposed language of PRT-TC-1.3 dilutes what is required under the existing LCP at Padaro Lane and confuses what is otherwise a straight forward issue with regard to public access. If and when the litigation is resolved, then County should pursue opening it for public use. The language as proposed under PRT-TC-1.3 requires further evidence of the need for opening the access, requires additional Board of Supervisors designation of priority, and implies that the residents have overriding authority over the appropriate improvements and management of the accessway. While public involvement (local residents *and* the general public) is encouraged, and the County asserts that public planning is something they would implement anyway, the County is the appropriate approving body and it is not appropriate to imply that there may be an opportunity in which a dedicated accessway would not be opened in this case.

Additionally, as proposed, the opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. However, this is not "new development" rather a part of an already approved permit. Without the access, the approval of the CDP (which included the access) is being diminished in a way that lessens the intent of the approval. When a permit requires recording an offer to dedicate an accessway for the public to get to the beach (or an easement), that permit is interpreted to also authorize use of the accessway as provide in LUP Modification 26.

Finally, PRT-TC-1.3 requires the County to include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and other appropriate features for the beach access. While it is important to consider facilities to enhance the access and protect public safety, privacy and security, new facilities are not a requirement for opening an OTD. Furthermore, the provision of facilities is included within the Toro Canyon Plan as described in LUP Modification 28.

Therefore, for the above reasons, and for consistency with existing LCP Policy 7-8, the Commission finds it necessary to strike the additional language as shown in LUP Modification 26.

Santa Claus Lane

Santa Claus Lane area beaches are extensively used by the public, although no official beach access easement exists. Public access occurs by crossing the Union Pacific Railroad tracks and climbing over large seawall rocks at the western end of Santa Claus Lane. No crossing guards or signals exist to caution beach-goers of approaching trains. Limited informal roadside parking exists in this area. Beach access has been gradually obstructed by development of coastal properties. Many properties fronting the beach in the Plan Area have seawalls that restrict lateral access, and some of the seawalls project out far enough that the beach is submerged during high tide.

Action PRT-TC-1.4 details public access to the beach from Santa Claus Lane such that Santa Claus Lane shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; clarifying the status of lateral beach access rights and securing any easements that may be necessary and appropriate; developing one or more parking areas; constructing appropriate safety features; and installing any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. As proposed, the opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet-ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date.

LUP Modifications 22 and 27 require that the language be modified to affirmatively assert that the County shall pursue public access to the beach from Santa Claus Lane, including the determination of prescriptive rights which is presently being undertaken for this area. The wording stating that Santa Claus Lane access as "the priority beach

access for Toro Canyon Plan Area” has been stricken because it suggests that the Padaro Lane accessway is inferior and may not be opened until after Santa Claus Lane. However, both accessways are equally important to provide beach access and Padaro Lane is further along in the process. Additionally, LUP Modification address the inclusion of coastal access parking and signage, and any other facilities needed as described in LUP Modification 28. LUP Modification 28 allows for the provision of facilities but are not required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a condition to the approval to construct or open the accessway.

As with the Padaro Lane policy language, the consultation with local residents has been stricken from the text. The Commission encourages public participation, but it is not appropriate to imply, as enforceable policy within the Plan, that local residents may have veto power over the opening of an accessway. Opposition to a project is not grounds to deny the public rights of access.

Furthermore the text regarding the opening of any beach development and approved to protect public safety, privacy, and security of residents to the maximum extent feasible is also unclear. These protections are a global right under the Coastal Act. Their inclusion and the wording to the maximum extent feasible again imply veto power by the residents which weakens the existing LUP policies, inconsistent with the protection of public access under the Coastal Act.

To address potential conflicts, LUP Modification 22 also references LUP Modification 5 to ensure that public access policies shall take priority over other general development standards.

General

Impacts to access can occur from physical blockage of existing access, direct occupation of sandy beach by structures as well as from impacts on shoreline sand supply and profile caused by seawalls and other shoreline protective structures. To ensure protection of public access consistent with the Coastal Act, LUP Modification 77 specifies that public accessways and trails are considered resource dependent uses. However, accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESH. Furthermore, LUP Modification 30 requires public accessways and trails to be located outside of ESH and ESH buffers where feasible and shall be sited and designed to minimize impacts to environmentally sensitive habitat to the maximum extent feasible. Trails shall be sited outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Where seasonal closures occur, alternative trail segments shall be provided where feasible. LUP Modification 5 provides that public access and ESH policies shall take precedence over the general policies of the LCP.

Additionally to ensure adequate public access consistent with the Coastal Act, LUP Modification 23 provides that public accessways are a permitted use in all land use and zoning designations. Where there is an existing unopened public access OTD or other easement, the necessary access improvements shall be permitted to be constructed, opened, and operated for its intended public use.

LUP Modification 29 provides for the incorporation of conditions that will provide or protect access where there is substantial evidence that prescriptive rights exist. LUP Modification 28 provides for facilities that complement public access to and along the shoreline to be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.

The requirement for the recordation of an OTD does not ensure public access; the offers must be accepted by a managing entity, and, for vertical easements which often require some form of physical improvement, be opened for public use. Furthermore, an OTD is valid for a limited time period. OTDs, in many cases, are not required to be made available for public use until the easement is accepted for management by a public agency or non-profit organization. Therefore, it is important that the LUP contain provisions to ensure that OTDs required as a condition of development are not only accepted prior to their expiration date, but that they are opened, improved, where necessary, and managed for public use. LUP Modifications 24 and 25 provide for the opening, construction and maintenance of new accessways or the ongoing operation of existing accessways as well as for the acceptance, operation and maintenance of offers to dedicate beach or trail access easements. Including provisions for other public agencies or private association to open, operate, and maintain the accessway in accordance with the terms of the easement if the County is unable to operate the accessway.

6. Access & Circulation

The Plan anticipates the preparation of a Transportation Improvement Plan (TIP), as was done for other areas of the County following adoption of a Community Plan, in a manner consistent with the area's rural and semi-rural character. Improved transit and bikeways are also addressed in the Plan. Key Plan proposals include working with Caltrans to use some of the Highway 101 right-of-way along Santa Claus Lane for a joint use Park-and-Ride beach access parking lot, and designating a new Class II (striped on-road) bikeway on Via Real that would connect the existing Class II bikeway on Via Real with a proposed Class I (off-road) bikeway to the City of Carpinteria on the east.

The network of roads within the Toro Canyon Plan area serve as alternative routes of access to the coast. Foothill Road is a significant east-west trending road connecting to several roads including Cravens Lane, Nidever Road, and Toro Canyon Road. Foothill

Road is known to experience heavy use by recreational bicyclists. To maintain access and alternative transportation to the coast, LUP Modification 34 requires improvements along Route 192/Foothill Road to be developed in a manner consistent with bicycle and pedestrian safety and improved bicycle access. LUP Modification 35 calls for the County to consider requiring setbacks from Route 192/Foothill Road for future bicycle and pedestrian access lanes during review of applications for new development.

7. Trails

The proposed Plan includes an updated Parks, Recreation and Trails (PRT) Map. The amended map includes modified trail alignments to minimize potential conflicts between trail users and adjacent agricultural and residential land uses. Many area residents are concerned over the potential for new public trails for such reasons as privacy, sanitation, potential vandalism, and the spread of disease organisms in agricultural areas. The Plan addresses these concerns through its trail siting guidelines, and actions and development standards that mitigate potential conflicts between private property interests and public trails.

Although some trails would follow existing dirt roads and paths, construction of approximately 10 miles of off-road trails within remaining undeveloped areas could remove rare plants, such as those associated with oak riparian forest, oak forest, chaparral, coastal sage scrub and native grassland. Increased disturbance to wildlife by hikers and dogs would potentially cause a decline in nesting and breeding activities and increased mortality of wildlife.

DevStd PRT-TC-1.6 provides that all opportunities for public trails within the general corridors identified on the Parks, Recreation and Trails (PRT) map shall be protected, preserved and provided for during review and upon approval of development and/or permits requiring discretionary approval. County Public Works shall consult with the County Park Department prior to issuing any encroachment permits for on-road development such as driveways along road shoulders with current or proposed trails. LUP Modification 31 does not allow issuance of encroachment permits if the trail corridor would no longer be feasible, and a feasible alternative route has not been identified. Non-structural public access improvements such as trails and accessways may be permitted within floodprone areas consistent with the other provisions of the LCP, as provided LUP Modification 107.

To address the issue of siting of public access and trails, LUP Modification 153 modifies the text in the trail siting guidelines appendix to remove the vague language "to the maximum extent feasible." By removing such language, the policies and guidelines are clarified to be enforceable standards protective of resources. Stream crossings shall be minimized, and fences shall be constructed to allow for wildlife movement and protection of resources. LUP Modification 153 further provides that trails may be designed for bicycle use where resource damage such as loss of vegetation or increased erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to the protection of public access submitted are inconsistent with the requirements of Section 30210, 30211, 30212, 30214, and 30252 of the Coastal Act unless modified as suggested above. Additionally, the proposed protection implementation amendments for public access are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

I. LAND USE, NEW DEVELOPMENT, AND CUMULATIVE IMPACTS

1. Coastal Act Policies

Section 30001 provides legislative findings and declarations for ecological balance as follows:

The Legislature hereby finds and declares:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

Section 30001.5 provides basic goals for the coastal zone as follows:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

Section 30007.5 of the Coastal Act address "balancing of policy conflicts as follows:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Section 30200 of the Coastal Act states:

(a) Consistent with the coastal zone values cited in Section 30001 and the basic goals set forth in Section 30001.5, and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section 30500), and, the permissibility of proposed developments subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on coastal zone resources in order to assure that these policies are achieved.

(b) Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

Section 30250 of the Coastal Act states, in relevant 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.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30253 of the Coastal Act states, in part, that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Section 30255 of the Coastal Act states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30610 of the Coastal Act states:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter.

(b) Improvements to any structure other than a single-family residence or a public works facility; provided, however, that the commission shall specify, by regulation, those types of improvements which (1) involve a risk of adverse environmental effect, (2) adversely affect public access, or (3) involve a change in use contrary to any policy of this division. Any improvement so specified by the commission shall require a coastal development permit.

(c) Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

(e) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program.

(f) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, however, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

(g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

(2) As used in this subdivision:

(A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(C) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

(h) Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

(i) (1) Any proposed development which the executive director finds to be a temporary event which does not have any significant adverse impact upon coastal resources within the meaning of guidelines adopted pursuant to this subdivision by the commission. The commission shall, after public hearing, adopt guidelines to implement this subdivision to assist local governments and persons planning temporary events in complying with this division by specifying the standards which the executive director shall use in determining whether a temporary event is excluded from permit requirements pursuant to this subdivision. The guidelines adopted pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Exclusion or waiver from the coastal development permit requirements of this division pursuant to this subdivision does not diminish, waive, or otherwise prevent the commission from asserting and exercising its coastal development permit jurisdiction over any temporary event at any time if the commission determines that the exercise of its jurisdiction is necessary to implement the coastal resource protection policies of Chapter 3 (commencing with Section 30200).

2. Existing LUP Policies

Goal 1.2(b)

Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

Policy 2-6 of the LCP states, in part, that:

Prior to issuance of a development permit, the County shall make the finding...that adequate public or private services (i.e., water, sewer, roads, etc.) are available to serve the proposed development.

Policy 2-12 of the LCP states, in part, that:

The densities specified in the land use plan are maximums and shall be reduced if it is determined that such reduction is warranted by conditions specifically applicable to a site, such as topography, geologic, or flood hazards, habitat areas, or steep slopes.

Policy 7-28:

Visitor-serving commercial recreational development that involves construction of major facilities, i.e., motels, hotels, restaurants, should be located within urban areas, and should not change the character or impact residential areas.

Policy 7-29:

Visitor-serving commercial recreational development in rural areas should be limited to low intensity uses, i.e., campgrounds, that are designed to protect and enhance visual resources, and minimize impacts on topography, habitats, and water resources.

Policy 7-30:

Visitor-serving facilities shall be permitted in rural areas only if it is determined that approval of such development will not result in a need for major ancillary facilities on nearby lands, i.e., residences, stores, or gas stations.

Policy 8-2 of the LCP states:

If a parcel is designated for agricultural use and is located in a rural area not contiguous with the urban/rural boundary, conversion to non-agricultural use shall not be permitted unless such conversion of the entire parcel would allow for another priority use under the Coastal Act, e.g., coastal dependent industry, recreation and access, or protection of an environmentally sensitive habitat. Such conversion shall not be in conflict with contiguous agricultural operations in the area, and shall be consistent Section 30241 and 30242 of the Coastal Act.

Policy 8-3 of the LCP states:

If a parcel is designated for agricultural use and is located in a rural area contiguous with the urban/rural boundary, conversion shall not be permitted unless:

a. The agricultural use of the land is severely impaired because of physical factors (e.g. high water table), topographical constraints, or urban conflicts (e.g., surrounded by urban uses...), and

b. Conversion would contribute to the logical completion of an existing urban neighborhood, and

c. There are no alternative areas appropriate for infilling within the urban area or there are no other parcels along the urban periphery where the agricultural potential is more severely restricted.

Policy 8-4 of the LCP states that:

As a requirement for approval of any proposed land division of agricultural land designated as Agriculture I or II in the land use plan, the County shall make a finding that the long-term agricultural productivity of the property will not be diminished by the proposed division.

Policy 10-1 (Archaeological and Historical Resources) of the LCP states that:

All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.

Policy 10-2 (Archaeological and Historical Resources) of the LCP states that:

When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.

Policy 10-3 (Archaeological and Historical Resources) of the LCP states that:

When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.

Policy 10-4 (Archaeological and Historical Resources) of the LCP states that:

Off-road vehicle use, unauthorized collecting of artifacts, and other activities other than development which could destroy or damage archaeological or cultural sites shall be prohibited.

Policy 10-5 (Archaeological and Historical Resources) of the LCP states that:

Native Americans shall be consulted when development proposals are submitted which impact significant archaeological or cultural sites.

3. Existing IP/CZO Policies

Sec. 35-62. Recreation and Visitor Serving Uses.

1. Recreational uses on oceanfront lands, both public and private, that do not require extensive alteration of the natural environment (i.e., tent campgrounds) shall have priority over uses requiring substantial alteration (i.e., recreational vehicle campgrounds)

2. Visitor-serving commercial recreational development that involves construction of major facilities, i.e., motels, hotels, restaurants, should be located within urban areas, and should not change the character or impact residential areas.

3. Visitor-serving commercial recreational development in rural areas should be limited to low intensity uses, i.e., campgrounds, that are designed to

protect and enhance visual resources, and minimize impacts on topography, habitats, and water resources.

4. Visitor-serving facilities shall be permitted in rural areas only if it is determined that approval of such development will not result in a need for major ancillary facilities on nearby lands, i.e., residences, stores, or gas stations.

Section 35-162. Nonconforming Buildings and Structures.

If a building or structure is conforming as to use but nonconforming as to setbacks, height, lot coverage, or other requirements concerning the building or structure, such structure may remain so long as it is otherwise lawful, subject to the following regulations.

1. Structural Change, Extension, or Expansion. A nonconforming building or structure may be enlarged, extended, moved, or structurally altered provided that any such extension enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article. Seismic retrofits, as defined in Section 35-58 and pursuant to Section 35.169.2.1.m., are permitted throughout the conforming and nonconforming portions of the structure or building. No living quarters may be extended into an accessory building located in the required front, side, or rear yards by such addition or enlargement.

2. Damage. The purpose of this section is to identify the standards for allowing the restoration or reconstruction of a nonconforming structure that is damaged by fire, flood, earthquake or other natural disaster.

a. Except for single family residential buildings or structures, where a nonconforming building or structure is damaged by fire, flood, earthquake, or other natural disaster to an extent of seventy-five (75) percent or more of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may not be reconstructed unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the structure should reconstruction of the nonconforming structure be denied.

b. Where damage to a nonconforming, non-single family residential building or structure is to an extent of less than seventy-five (75) percent of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may be restored to the same or lesser size in the same general footprint location.

c. If a nonconforming single family residential building or structure is damaged or destroyed by fire, flood, earthquake, or other natural disaster, such building or structure may be reconstructed to the same or lesser size in the same general footprint location.

d. Notwithstanding the above, additional provisions, identified in Section 35-214 of Division 15 (Montecito Community Plan Overlay District), exist for parcels identified within the MON Overlay zone which, in the case of conflict, shall take precedence over this Section.

e. The restoration permitted above shall commence within twenty-four (24) months of the time of damage and be diligently carried to completion. If the restoration of such building or structure does not commence within twenty-four (24) months it shall not be restored except in conformity with the applicable zone district regulations and other provisions of this Article.

f. The restoration of a nonconforming building or structure that is damaged by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building or structure complies with the provisions of this Section and if the building or structure conforms to the specifications documented to exist prior to the damage as determined by the Planning and Development Department. If the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, the restored structure shall be subject to the provisions of Section 35-184., Board of Architectural Review., if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District). If the building or structure is proposed to be altered from the original specifications, the restoration shall be subject to all applicable permit requirements of this Article.

4. General Discussion

The Coastal Act requires the protection of coastal resources, including public access, land and marine habitat, and scenic and visual quality. Focusing new development to areas in close proximity to existing development with available public services serves to minimize the impacts of remote "leap-frog" development that would require the construction of roads, utilities, and other services. Section 30250 of the Coastal Act requires that new residential, commercial, or industrial development is located near existing developed areas, and where it will not have significant adverse impacts, either individually or cumulatively on coastal resources. Additionally, Section 30250 establishes that land divisions outside existing developed areas can only be permitted where fifty percent of existing parcels have already been developed and that the new parcels are no smaller than the average size of existing parcels. Section 30244 requires the protection of archaeological and paleontological resources and the implementation of mitigation measures to avoid or minimize any impacts.

The LCP provides policies to guide general development and limit maximum development densities according to site conditions and availability of adequate services and restrict urban development to designated urban areas and Existing Developed Rural Neighborhoods. Policy 2-12 acknowledges that land use densities may need to be reduced if it is determined that a reduction is warranted by constraints such as topography, geologic or flood hazards, habitat areas, or steep slopes. Policy 2-6

requires the finding that adequate public or private services are available to serve a proposed development in order to grant approval of a development project.

The Toro Canyon Plan further refines these concepts by increasing the minimum lot size for agricultural and residential land uses. The rationale for these changes is based on the specific constraints for the Toro Canyon area. These constraints include steep slopes, poor soils, inadequate sewer services and septic capability, sensitive habitats, high fire potential and narrow, winding roads. The reduction of potential development densities proposed in this plan lessens the risks to life and property that could occur in the event of a major wildfire. The Plan contains both policies and development standards for the protection of environmental resources as well as land use designation changes that would reduce potential development density and community's ultimate buildout potential.

5. New Development

The Toro Canyon Plan area is mostly rural, consisting primarily of agricultural lands with some rural residential intermixed. Residences in existing Rural Neighborhoods are mostly custom homes, with a few tract homes on some of the smaller lots. However, residential building trends involve new custom homes with structures far larger than existing homes, from 5,000 to as large as 20,000 square feet. The Plan area also contains three small commercial areas along Highway 101.

The Toro Canyon Plan proposes to modify land use designations and associated zoning in a manner that would reduce potential development density and the community's ultimate buildout potential. The Toro Canyon Plan rezones residential and agricultural areas with significant development constraints to larger minimum parcel sizes. Many of these areas are characterized by limited public road access to parcels, narrow winding roads, steep slopes, poor soils, lack of public sewers, high fire hazard with poor excavation routes, and larger amounts of sensitive habitats including major creeks. For these reasons, limiting additional development density in these areas would reduce overall watershed impacts.

The Plan includes another shift in land use density by redesignating / rezoning foothill lands from Agriculture to Mountainous Area (MA) in order to balance resource protection with agricultural expansion in areas with limited access, steep slopes, poor soils, high fire hazards, and large areas of sensitive habitat. The MA designation allows agricultural uses, but includes greater protection of natural resources. The Mountainous designation is intended to protect lands unsuited for intensive development. Combined with the reduction in density of residential parcels, these changes would reduce the total potential density of future development that could occur within the Plan area.

The following clarification is intended to address the prevailing confusion as to what extent agricultural activities require a coastal development permit under the existing LCP. The Hillside and Watershed Protection policies of the LUP specifically define "major vegetation removal" as the removal of native vegetation, brush, trees, or

orchards involving a cumulative total of one-half acre of land or more (emphasis added). As stated in the LUP (page 31):

In order to ensure the long-term preservation of the biological productivity of streams and wetlands, protection of visual resources, and prevention of hazards to life and property, Policies 3-13 through 3-22 shall apply to all construction and development, including grading for agricultural and non-agricultural purposes which involve the movement of earth in excess of 50 cubic yards. In addition, major vegetation removal⁸ for non-agricultural development and agricultural development (agricultural development does not include crop rotation and other activities involving management practices on existing agricultural lands in production) shall be subject to all of the following policies. The Soil Conservation Service shall be consulted for all development on hillsides in excess of 30 percent slope and in the Carpinteria Planning Area on slopes of 20 percent or over to incorporate their management practices as a condition of development, where applicable.

Therefore, by definition, agricultural activities that require 50 cubic yards of grading (excluding crop rotation, harvesting, and other management practices for existing lands in production) and/or ½-acre of major vegetation removal are “development” subject to the coastal development permit requirements of the existing LCP. Given the lack of noticing for agricultural projects in the Commission’s records, it is not clear that the *cumulative* nature of this definition has ever been fully enforced. Potentially allowing incremental ½-acre segments of vegetation removal to occur on the slopes in the Plan area without benefit of a permit.

As a result, where the term “development” or “new development” is discussed in the LCP, agricultural development meeting the cumulative definition of agricultural development is included. New development can adversely impact environmentally sensitive habitat areas through many means including, but not limited to, grading, landform alteration, vegetation clearance, erosion, sedimentation runoff, stream siltation, and reduced water percolation.

In order to ensure that new development is sited in areas able to accommodate it and where it will not have significant cumulative impacts on coastal resources, as required by Section 30250 of the Coastal Act, siting and design must also take into account the requirements of other applicable policies of Chapter 3 of the Coastal Act, including public access, recreation, land and marine resources, and scenic and visual quality. Some general policies have been included in the Land Use section of the Toro Canyon Plan to consistent with Section 30250.

LUP Modifications 4 and 15 provide that in addition to the requirements of LUP Policy 2-11, development shall be scaled to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep

⁸ Major vegetation removal shall be defined as the removal of native vegetation, trees, or orchards involving a cumulative total of one-half acre of land or more. (as defined in the LUP, pg. 31)

slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of driveways; number and size of accessory structures; configuration and size of development envelopes; amount and location of grading; vegetation removal; and night lighting.

The Land Use General goal was revised as provided in LUP Modification 1 to Provide For New Development In A Manner That Avoids Degradation Of The Natural Environment And Other Coastal Resources, Considers The Social And Economic Needs Of The People Of The State, Including Visitor-Serving Commercial And Coastal Access/Recreational Uses, And Protects Public Safety. The Land Use Residential Goals was revised to include that residential development was consistent with the protection of all other coastal resources, including agriculture as required by Section 30241 of the Coastal Act as illustrated in LUP Modification 11. Fire Policy TC-1 was clarified to require minimization of impacts to all coastal resources as provided in LUP Modification 18.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to new development submitted are inconsistent with the requirements of Section 30250 of the Coastal Act unless modified as suggested above. Additionally, the proposed implementation amendments for new development are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

6. Balancing Policy Conflicts

Sections 30001 and 30001.5 of the Coastal Act declare the legislative goals to protect coastal resources within the coastal zone and include overall protection of the ecological balance of the coastal zone and prevent its deterioration and destruction. Sections 30007.5 and 30200 of the Coastal Act provide a framework for resolution of policy conflicts, in recognition of the fact the application of the Chapter Three policies of the Coastal Act may conflict. In such cases, Section 30007.5 requires that such conflicts be resolved by applying the policies which, on balance, are the most protective of coastal resources.

The Land Use provisions of the Toro Canyon Plan provide general goals for agricultural, residential, and commercial development and provide guidance with regard to the implementation of development goals in a manner protective of resources. GOAL LUG-TC is to ensure that residential and agricultural development occurs in balance with the existing environment to protect natural resources and public safety and ensure that commercial areas are economically viable and are a benefit to both travelers and the local community. In addition GOAL LUR-TC is to balance residential development with protection of resources, respect constraints to development and concentrate development in areas with adequate public facilities. GOAL LUA-TC is to protect and support agricultural land use and encourage appropriate agricultural expansion, while maintaining a balance with protection of coastal and natural resources and protection of public health and safety. Though each of these goals is intended as a broad general

policy, they are considered binding under terms of the LCP. Therefore, it is important that even on a broad level, these goals be fully consistent with the Coastal Act and be clear in a way that allows precise implementation. Under the Coastal Act, the term "balance" or "balancing" has special meaning. Typically it refers to Section 30007.5 of the Coastal Act which allows resolution of policy conflicts when more than one of the Chapter 3 policies of the Coastal Act apply, but are mutually exclusive. In such cases, the policy that is more protective, overall, of resources prevails. Each of the goals above includes language to "balance" various aspects of development and resource protection. This conflicts with the balancing provisions of the Coastal Act by inadvertently implying that there is a hierarchy of protection. Therefore, to ensure that Section 30007.5 is implemented under appropriate circumstances and that the resource protection policies and provisions provided under the LCP and Toro Canyon Plan are not unintentionally lessened through inaccurate implementation, the Commission finds it necessary to revise these goals in a manner that all references to balancing as described in LUP Modifications 5, 11, and 16.

Similarly, specific reference to policy conflicts and balancing were made in DevStd BIO-TC-4.3 and DevStd BIO-TC-4.4. DevStd BIO-TC-4.3 allows fuel modification within ESH or ESH buffer areas when consistent with the balancing provisions of the Coastal Act. To avoid the use of balancing language, LUP Modification 88 strikes the text referencing Coastal Act balancing and clarifies that fuel modification in association with existing lawful development within the ESH or ESH buffer may only be permitted when development is approved pursuant to the takings provisions as described in LUP Modification when a finding can be made that that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible. LUP Modification 90 has also been modified to strike all text regarding the balancing provisions of the Coastal Act.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to balancing conflicting policies submitted are inconsistent with the requirements of Section 30001, 30001.5, 30007.5, and 30200 of the Coastal Act unless modified as suggested above. Additionally, the proposed implementation amendments for balancing conflict are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

7. Urban/Rural Residential

The Plan proposes to move the urban/rural boundary into portions of the existing urban area, thereby creating a larger rural area. The plan would rezone some residential areas with significant development constraints to larger minimum parcel sizes. Many of these areas are characterized by limited public road access to parcels, narrow winding roads, steep slopes, poor soils, lack of public sewers, high fire hazard with poor excavation routes, and larger amounts of sensitive habitats including major creeks. For these reasons, limiting additional development in these areas would reduce adverse impacts, and each area is proposed to be rezoned to larger minimum lot sizes.

The Plan proposes to pull in the Urban Area Boundary northward and westward to encompass a smaller portion of the northwest part of Toro Canyon (see Exhibit 7). In

this region, much of the area inside the existing urban boundary line is actually rural in nature, with relatively large lot sizes and significant development constraints. The urban boundary line has been relocated to encompass only the relatively small properties along Ladera, Freehaven, and Macadamia Lanes, and the "Cima Del Mundo" properties zoned 5-E-1 on East Valley Road. The shift in the Urban/Rural boundary reduces the Urban area in the coastal zone by designating it an Existing Developed Rural Neighborhood.

Some changes are proposed to the previously defined Rural Neighborhood (RN) boundaries, which were originally defined and drawn to circumscribe past anomalies contained within an otherwise rural area. The only proposed changes are: to include the Santa Claus Lane commercial properties within the RN that currently includes only the residential properties along the adjacent Padaro Lane and Sand Point Road shorelines; to correct a past mapping error that excluded one small lot from the southwestern part of the La Mirada-Paquita Drive RN on the north side of Foothill Road east of Nidever Road (current zoning on this lot is 1-E-1 and is not proposed to change); and to include the Torito Road area and some adjacent easterly lots within a new RN boundary (see agricultural conversion section above).

The downzoning of residential parcels is consistent with Section 30250 of the Coastal Act. However under separate provision of the Toro Canyon Plan, Action LUR-TC-1.1, states that the County shall consider the approval of Residential Second Units, which categorically are considered to be potentially affordable units, on appropriate sites in a manner consistent with applicable goals, policies, development standards, and ordinance provisions. The above action implies that approval of residential second units is focused on their ability to serve as potentially affordable units on not subject to the typical requirement for all new development. To clarify that residential second units must be considered, located, and configure consistent with the LCP requirements, LUP Modification 12 revised Action LUR-TC-1.1 to ensure that residential second units are sited and designed in a manner consistent with applicable, goals, policies, development standards, and ordinance provisions and the certified LCP (which will include the Toro Canyon Plan when formally certified).

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to new development submitted are inconsistent with the requirements of Section 30250 of the Coastal Act unless modified as suggested above. Additionally, the proposed implementation amendments for new development are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

8. Commercial Development

The LCP amendment proposes to include the Santa Claus Lane commercial area within an Existing Developed Rural Neighborhood, and rezone it from Highway Commercial to Limited Commercial (C-1) "to allow for a more economically viable use of Santa Claus Lane." The proposed zoning is intended to provide a mix of uses for both visitors and local residents, rather than only travelers and visitors. This plan also

considers increased parking in the Santa Claus Lane area and new landscaping and design standards.

Santa Claus Lane includes eight small businesses and three unoccupied buildings. Existing uses include two restaurants, and agricultural supply business, an art gallery, five gift shops and some non-conforming residential uses. Almost half the parcels and half the existing buildings are currently vacant. This area is presently zoned Highway Commercial, a designation of the certified LCP that is intended to serve the traveling public. The Final Environmental Impact Report (Santa Barbara County, 2002) for this amendment reported that "because of location, access, fragmented ownership, parking constraints and limited demand, this designation has not promoted the most efficient use of these commercial areas, especially along Santa Claus Lane. Business vacancies are common, building modernization and maintenance sometimes lag, and this important gateway remains somewhat blighted."

The proposed C-1 District in the Toro Canyon Plan Area (see Table 2 below) would represent a modified C-1 District as implemented through the Toro Canyon Plan (TCP) Overlay such that residential use would not be permitted in the absence of a primary commercial use; lodges would be permitted with a Major Conditional Use Permit (CUP) rather than a CDP; retail commercial uses would be required to have more prominent locations than any residential uses or general practitioner's / professional offices on the same property; and seafood processing and video arcades would be allowed as secondary uses to other primary commercial uses and only when conducted entirely within an enclosed building. The TCP Overlay District also includes several policies, development standards, and actions that would involve the county and property owners working together to improve the Lane's mix of businesses, aesthetic character, parking availability, and various other amenities for the benefit of local residents and visitors.

Table 1. Comparison of Existing and Proposed Commercial Use.

The Highway Commercial Zone District (Existing)	Santa Claus Lane C-1 (Proposed)
<i>Permitted Uses</i>	
Motels, hotels, restaurants, auto service stations and garages, dwellings occupied by the owner or his employees, bus terminals, train stations, agricultural uses, mini-mart/convenience stores of less than 3,000 sq. ft., any other uses which Planning Commission determines to be similar to above uses, non-residential child care centers accessory and subordinate to above uses, accessory uses incidental to the above uses.	Retail stores; services such as laundromats, dry-cleaning substations, beauty parlors, shoe repair, photography studio, fitness studio, and other similar uses; restaurants, financial institutions (except corporate offices); general business offices (such as real estate offices and general practitioner's offices) only as secondary to a primary commercial use; retail plant nurseries; non-profit recycling facility; child care facilities; residential uses that are secondary to a primary commercial uses; overnight visitor-serving accommodations such as bed-and-breakfasts and hostels; seafood processing and video arcades as secondary uses to a primary commercial use; any other uses which Planning Commission determines to be similar to above uses, accessory uses incidental to the above uses.

<i>Uses permitted with a Minor Conditional Use Permit</i>	
Commercial driving tees, putting ranges, golf courses, truck service stations, and mechanical car washes, residences provided the residential use is secondary to a primary commercial use, plus other uses potentially allowable in any zone district with a Minor CUP.	Auto service stations, sale of fruit/ vegetables/ flowers; community center; Certified Farmer's Market, lodges, plus other uses potentially allowable in any zone district with a Minor CUP.
<i>Uses permitted with a Major Conditional Use Permit</i>	
Overnight recreation-vehicle facilities, drive-in theaters, and retail grocery stores of less than 5,000 sq. ft., plus other uses potentially allowable in any zone district with a Major CUP.	Small animal hospitals; hotels and motels, plus other uses potentially allowable in any zone district with a Major CUP.

The proposed designation represents a change from highway visitor-serving to a mix of business that would serve local residents and the general public. However, the new designation removes four designations from the existing Highway Commercial which serve the public: (1) mini-mart/convenience stores are not included in the permitted uses under the proposed C-1; (2) auto service stations now require a Minor CUP in C-1; (3) hotels and motels now require a Major CUP; and (4) overnight recreation vehicle facilities are not listed as a use permitted with a Major CUP. Because each of these designation are visitor-serving, they should be retained as allowed in the present HC zone. Therefore, IP Modification 172 modifies the C-1 zone to include mini-marts, auto service stations, and hotel/motels as permitted uses and overnight recreation vehicle facilities with a major conditional use permit.

Additionally, the Commission finds that though a modified use zone is clearly important to allow more flexible and successful commercial enterprises in this area, a complete transformation from highway commercial visitor serving to a commercial area that does not provide an adequate mix of visitor-serving is inconsistent with Section 30222 of the Coastal Act to make visitor-serving a priority use. Given that financial institutions and general business offices do not serve visitors, IP Modification 172 removes these categories from C-1 permitted uses.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to new development submitted are inconsistent with the requirements of Section 30222 and 30250 of the Coastal Act unless modified as suggested above. Additionally, the proposed implementation amendments for new development are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

9. Certificates of Compliance

The Coastal Act Definition of Development (Section 30106):

Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing,

dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

This definition of development is mirrored in the County's certified LCP. This definition includes: "change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act... and any other division of land, including lot splits..." Certificates of Compliance fall into the category of land division and thus are development under the Coastal Act.

Certificates of compliance grant authorization for a lot that was created through a land division that occurred previously but was illegal because it failed to comply with applicable state laws or local ordinances. An owner of property may request that the local government determine whether a parcel was created in conformance with the requirements of the Subdivision Map Act. After review, the local government may issue a certificate of compliance with or without conditions. Certificates of compliance recognize property as a separate legal parcel for purposes of conveyance, transfer or financing, but they do not grant any right to develop the parcel. There are three separate situations in which the issuance of a certificate of compliance may be requested:

1. Land division occurred prior to the effective date of the Coastal Act and lot was created in compliance with laws in effect at the time.
2. Land division occurred prior to the effective date of the Coastal Act and lot was not created in compliance with laws in effect at the time.
3. Land division occurred after the effective date of the Coastal Act without approval of a coastal development permit.

In the first case described above, the certificate of compliance confirms that creation of the parcel already occurred legally prior to the Coastal Act; therefore, issuing the certificate of compliance does not constitute "development" and does not require a coastal development permit. In the second and third instances, the action of issuing a certificate of compliance grants government authorization for a parcel that was previously created illegally, through means that did not comply with the laws in effect at the time. This type of certificate, for the first time, authorizes the land division that created a new parcel. Therefore it constitutes development under the Coastal Act, and requires a coastal development permit. A certificate of compliance in the second and

third instances shall not be issued unless a coastal development permit that authorizes the land division is approved. The coastal development permit can only be approved if the land division is consistent with the policies of the LCP. Compliance with the LCP policies insures that the land division is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

For the above reasons, Commission staff interprets Conditional Certificates of Compliance to be development and therefore require a coastal development permit under the existing LCP. The interpretation applies countywide; however, because there seems to be some confusion in this regard, LUP Modification 10 clarifies that Conditional Certificates of Compliance, or Certificates of Compliance issued for land divisions that occurred after the Coastal Act, shall not substitute for evidence of lot legality within the coastal zone and shall require a coastal development permit appealable to the Coastal Commission.

Numerous policies require that land divisions minimize impacts to coastal resources and public access. Land divisions may not be approved if they would result in adverse impacts on coastal resources, such as water quality, wetlands, hazards, and ESHA, which are protected under Sections 30230, 30231, 30233, 30236 and 30240. A land division cannot be approved unless every new lot created would contain an identified building site that can later be developed consistent with all policies and standards of the LCP. For example, a land division cannot be approved if geologic hazards make it unsafe to build on the proposed parcel or if development on the proposed parcel would destroy ESHA or block public views of a scenic area (Sections 30253, 30240 and 30251). Therefore, LUP Modifications 84, 125, 129, 130, 139 and IP 171 and 172 clarify that land divisions may not occur if they would result in adverse impacts to coastal resources.

10. Nonconforming Structures and Disaster Replacement

Coastal Act Section 30610 outlines what types of development are exempt from coastal development permit requirements, including most improvements to single family residences, repair and maintenance activities and improvements to other structures. However, consistent with the Commission's Administrative Regulations 13250-13253, the ordinance specifies those improvements and repair and maintenance activities that are not exempt because they result in a risk of significant adverse impacts to coastal resources. Coastal Act 30610 also provides that structures, including legal nonconforming structures, damaged or destroyed by natural disasters can be rebuilt in the same location, exempt from a coastal development permit, under certain conditions. The County Zoning Code provides a list of exempt projects under Section 35-162 (Coastal Development Permits) and provides specific requirements for the expansion and/or reconstruction of nonconforming structures in Section 35-162 (Nonconforming Buildings and Structures).

The certified LCP differentiates between nonconforming uses and structures, defining each separately. Under the present code, nonconforming uses are expected to disappear over time. Nonconforming structures are allowed to remain indefinitely

(Section 35-162) and can expand as long as the expansion meets the current setback, height, and other requirements of the LCP. Nonconforming single-family residences can always be rebuilt if damaged or destroyed by natural disaster "to the same or lesser size in the same general footprint location." Parcels that are nonconforming as to lot size are recognized in the Zoning Ordinances as eligible buildable lots (with the exception of fraction lots).

The basic philosophy that underlies the zoning ordinances' normal treatment of nonconforming uses and structures: to make incremental improvements to the built environment over time through the application of better and more enlightened planning and zoning standards, while allowing the continuation of nonconforming uses and structures until their termination through means either deliberate (redevelopment), natural (wearing out), or calamitous (e.g., fire, flood, earthquake).

The zoning under the proposed amendment will render many of the parcels in the planning area nonconforming as to lot size. In addition, some existing residential structures may not conform to the height limits for rural areas or with setbacks from the ESH areas. Becoming nonconforming as to lot size primarily affects a parcel's ability to subdivide. The Office of County Counsel (August 30, 2000) noted that "if the County were to retain the current zoning throughout the Toro Canyon Plan area, it would encourage development in excess of the area's resources."

Although the Zoning Code addresses nonconforming structures and uses, there is no general guiding policy-basis in the existing LCP. This provides an implementation dilemma since implementation measures must be consistent with the LUP policies. Therefore, LUP Modification 9 has been developed to ensure that adequate implementation hierarchy as required by Section 30100.5 and 30108.4 of the Coastal Act (see Section C of this report) and consistency with the requirements of Section 30610 and the resource protection policies of chapter three. LUP Modification 9 specifies that existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Furthermore, additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP, with certain exceptions. LUP Modification 9 defines redevelopment of blufftop and beach properties to include additions that increases the size of the existing structure by 50% or more. Additionally, remodels that qualify as redevelopment, rather than "improvements" include demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls. In these cases, where the scale of additions or improvements render them defacto site redevelopments, then the entire non-conforming structure must be brought into conformance with the policies and standards of the LCP. Furthermore, LUP Modification 9 provides that non-conforming uses may not be increased or expanded into additional locations or structures. These requirements are implemented by adding a Section 35-194.4 Subsection 9 as shown in IP Modification 172.

The proposed amendment makes certain exceptions in the Toro Canyon Plan area for residential and nonresidential structures, with the greatest deference given to residential structures and appurtenances. Under Section 35-194.4 Subsection 1, the proposed amendment allows for the construction of a detached private garage structure where no attached garage structure existed, when a residential structure is destroyed by disaster. The Commission finds that it is necessary, under IP Modification 172 to clarify that such a structure would need to meet the provisions of the Toro Canyon Plan and certified LCP.

Other exceptions for residential structures are provided under Section 35-194.4 Subsections 2 and 3. Subsection 2 allows partial or complete reconstruction or structural repair due to normal wear and tear, if the residential structure is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted as a result of the Toro Canyon Plan. Subsection 3 allows the expansion of nonconforming residential structures within ESH buffer areas. The Commission cannot certify such exception because it provides a lesser degree of resource protection than the existing LCP and, in almost every case, is not consistent with Section 30240 or 30522 of the Coastal Act (see Sections G.9 "ESH Buffers" and C.3). However, the Commission does recommend certain exceptions for nonconforming primary residences in ESH buffer within Existing Development Rural Neighborhoods (see Section G.9 "Torito Road and Rural Neighborhoods") where, pursuant to detailed biological evaluation, such development can be shown not to have adverse impacts on ESH. The Commission requires modification of the TCP Overlay District, through IP Modification 172, to modify subsections 2 and 3 of the nonconforming structure policy, deleting the general residential reconstruction as a result of normal wear and tear without meeting the provisions of the LCP and expansion of nonconforming structures within ESH buffers and applying them in limited circumstances to existing developed rural neighborhoods.

The proposed language would allow as-built replacement of agricultural support structures damaged or destroyed by some calamity beyond the control of the property owner. An "agricultural support structure" would be defined as "a structure that is essential to the support of agricultural production on agriculturally-zoned property." The amendment further allows the partial or complete reconstruction or structural repair of agricultural support structures due to normal wear-and-tear such as structural pest damage or dry rot. Further, there would be special provisions to allow the expansion of nonconforming agricultural support structures that are located within ESH or ESH buffer areas. Section 30610 of the Coastal Act allows for the rebuild of any lawfully established structures, including legal non-conforming structures, in the event of a disaster. This provision does not include restoration or replacement of structures for normal wear and tear. The Commission finds that the voluntary tear down and rebuild of structures would require discretionary review consistent with the LCP standards. This would hold true for legal conforming structures as well as structures that are non-conforming. Furthermore, the proposed exception to allow additions to nonconforming structures into ESH and ESH buffer is not consistent with Section 30240 (see Section G.9 "ESH Buffers").

Therefore, the Commission requires IP Modification 172, Toro Canyon Plan (TCP) Overlay District Section 35.194.4 Nonconforming Structures and Uses Subsections 5 and 6, to delete the language allowing nonconforming agricultural structures to reconstruct the subject structure due to normal wear and tear; and delete the language allowing the expansion of agricultural structures within ESH or ESH buffers. Additionally, the Commission finds that the text defining agricultural support structures other than "greenhouse development as defined in the CA Overlay" is more appropriately proposed in the LCP amendment for Carpinteria greenhouses which has not been certified to-date. Therefore it is deleted in Toro Canyon Plan (TCP) Overlay District Section 35.194.4 Nonconforming Structures and Uses Subsections 4, noting that it should be included in the separate greenhouse amendment as a suggested modification.

Additionally, the TCP Overlay District outlines special provisions for non-residential structures such that any nonconforming nonresidential structure (e.g., detached accessory structures other than guest houses or second residential units) that requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. As discussed above, the reconstruction, or partial reconstruction, of a structure is a voluntary action by the owner and therefore must be fully subject to the provisions of the Toro Canyon Plan and LCP, which protect coastal resources. Therefore, the Commission finds it necessary to delete the text as shown in IP Modification 172, Section 35-194.4 Subsection 7. Additionally LUP Modification 98 is necessary to strike the policy basis to allow such deletions.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to new development submitted are inconsistent with the requirements of Section 30108.5, 30108.4, 30522 30610, and Chapter Three Policies of the Coastal Act unless modified as suggested above. Additionally, the proposed implementation amendments for disaster replacement and nonconforming structures are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

11. Archaeological Resources

The Toro Canyon area has known archaeological resources, with initial human habitation thought to have occurred as early as 11,000 years ago. By the time of Spanish contact in the 18th century, nearby Summerland and Carpinteria were densely populated by Chumash villages as a result of the abundant resources. Sites within the Plan area have the potential to provide additional information about the subsistence, tool, manufacturing, trade, and social organization of these prehistoric inhabitants, and how they adapted to changing environmental and social factors through time.

Impacts to archaeological resources from buildout of the Toro Canyon Planning Area would result from ground-disturbing activities related to construction, including

permanently removing or damaging archaeological resources including artifacts, deposits of subsistence remains (middens), house floors, cooking or roasting hearths, or other unknown prehistoric cultural features. Areas considered to have a high sensitivity for archaeological resources include creek corridors, along the bluffs near the ocean and on prominent ridgelines and knolls.

Section 30244 of the Coastal Act requires the protection of archaeological and paleontological resources and the implementation of mitigation measures to avoid or minimize any impacts. The existing certified LCP establish criteria for mitigation of potential impacts to historical and archaeological sites. These criteria are supplemented by additional policies and development standards to preserve cultural resources in the Plan area.

The Toro Canyon Plan policies provide that archaeological resources shall be protected and preserved and that Phase I surveys will be required when determined to be necessary during project review by the County or contract archaeologist or if the County's archaeological sensitivity map identifies a need for further study. In addition, recommendations of archaeological report analysis shall be incorporated into any permit issued for development. To further ensure that archaeological resources are protected and preserved consistent with Section 30244 of the Coastal Act, the Commission requires LUP Modification 148 to require the County to consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to archaeological resources submitted are inconsistent with the requirements of Section 30244 of the Coastal Act unless modified as suggested above. Additionally, the proposed implementation amendments for archaeological resources are not consistent with and inadequate to carry out the LUP, as modified, unless modified as suggested above.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the County of Santa Barbara's certified Local Coastal Program Land Use Plan and Implementation Ordinance. The Commission originally certified the County of Santa Barbara's Local Coastal Program Land Use Plan and Implementation Ordinance in 1981 and 1982, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the intent of the applicable policies of the Coastal Act and the certified Land Use Plan and feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment to the Land Use Plan and Implementation Plan components of the LCP into conformity with the Coastal Act and certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.



CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

**ADDENDUM**

DATE: October 7, 2003
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item 9a, Wednesday, October 8, 2003, County of Santa Barbara Major Amendment 3-02 (Toro Canyon Plan)

The purpose of this addendum is to attach (1) additional Exhibits to the staff report; (2) provide clarifying language with regard to protected trees; and (3) summarize correspondence received by the public as of October 6, 2003:

1. The following exhibits shall be attached to the staff report:

Exhibit 14. Aerial Photograph of Torito Road Rural Neighborhood and Proposed Agriculture Conversion Parcels

Exhibit 15. ESHA Map enlargement of Torito Road Rural Neighborhood

Exhibit 16. Toro Canyon Plan Coastal Zone Aerial Photo (Note, 30% slope with native chaparral area is included under the proposed Watershed Protection Overlay)

2. The following shall be inserted after the third full paragraph on page 213 of the staff report:

The Commission therefore finds that the proposed LUP amendments with regard to native and non-native protected trees submitted are inconsistent with Coastal Act requirements for protection of community character, visual resources, water quality and coastal waters, streams, and ESH provided in Sections 30230, 30231, 30236, 30240, 30251 of the Coastal Act, unless modified as suggested above.

3. Commission staff has received twenty-two additional letters regarding the proposed amendment, as of October 6, 2003:

Twelve letters (two examples attached) addressing similar topics (a) requesting that the hearing be rescheduled at future meeting date in Santa Barbara because of the distance and timing; and (b) addressing short time of review of the large staff report and substantive recommendations; (c) lack of Commission staff representation at County hearings during process of development; and (d) more time needed to analyze and address proposed recommendations to allow adequate public participation.

Nine similar letters (one example attached) requesting the Commission to (a) defer all testimony and consideration to its November 2003 meeting and hold meeting in Santa Barbara; (b) direct staff to work with County staff and local public to reach agreement on acceptable plan prior to November hearing; and (c) if negotiations do not result in mutually acceptable plan, request that the Commission deny the LCP Amendment rather than approve with modifications.

Letter (attached) from property owner at 3197 Padaro Lane which is proposed to be designated as Monarch Butterfly ESH Habitat, stating their position that the property is erroneously identified as monarch habitat and submitting a letter and report from an independent biologist (Dr. Walter Sakai) providing his opinion that "this was a monarch overwintering site but is no longer so." *Staff Note: The Monarch ESH Designation for this property is addressed on Page 194 of the staff report.*

T O R O
Toro Owners and Residents Organization

RECEIVED

October 2, 2003

OCT 3 2003

California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801
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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RE: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02
(Toro Canyon Planning Area), Agenda Item W9a for Public Hearing at the
Wednesday, October 8, 2003, Commission Meeting in Coronado

POSITION: First, TORO requests that the Commission decide to hold the record
open; defer all testimony and consideration of the Toro Canyon Plan
now scheduled for its October 8, 2003, meeting to its November 5-7,
2003, meeting; and change the location of its November, 2003, meeting
to Santa Barbara.

Second, TORO requests that the Commission direct its Staff to work in
Santa Barbara with Santa Barbara County Staff and the local public in
order to reach agreement on an acceptable local plan for the coastal area
of Toro Canyon prior to the Commission's November 5-7 meeting.

Third, the Commission must make it clear that if the negotiations of the
inclusive and representative working group conducted between now
and early November do not succeed at producing a mutually acceptable
Toro Canyon Amendment to the existing certified Santa Barbara County
Local Coastal Plan, then the Commission will simply deny to certify,
rather than modify and certify, the Toro Canyon Plan submitted by
Santa Barbara County.

Members of the California Coastal Commission:

TORO (Toro Owners and Residents Organization) represents hundreds of the residents,
farmers and business people throughout the Toro Canyon Plan area and its Coastal Zone.
For the past four years, we have participated in the local planning process which resulted in
the Toro Canyon Plan amendment to the Santa Barbara Local Coastal Plan which was
submitted to your Commission by Santa Barbara County. We worked diligently in this local
planning process to produce a Plan which effectively protects important coastal resources,
while respecting and benefiting from the wisdom and experience of the people who live,
work, and farm in Toro Canyon. Of course, there are portions of the Toro Canyon Plan
adopted by Santa Barbara County which we think could still be improved; but TORO made
a real contribution to producing a quality Toro Canyon Plan.

Although the Toro Canyon Plan remains the only Community Plan in Santa Barbara
County developed without the benefit of a General Plan Advisory Committee (GPAC),
TORO insisted on and secured opportunities for citizen participation from the outset of the
planning process. We took each and every opportunity available to make constructive
commentary and concrete proposals. We believe the Toro Canyon Plan is much better as a
result of our efforts. At the close of the Santa Barbara County Board hearings on the Toro
Canyon Plan, our Supervisors said they had never seen such sustained and significant public
participation in the development and adoption of a community plan. The Board thanked us
for our participation, our dedication, and our positive influence on the content of the Plan.

Our members have attended hundreds of hours of public hearings before the Santa Barbara County Planning Commission and Board of Supervisors. Our members have attended scoping sessions and workshops, and were invited to participate in our County Supervisor's "ad hoc working group" to help resolve some of the most controversial proposals made during the Toro Canyon planning process. We have presented thoughtful and thorough testimony and written comments at every public hearing on the Toro Canyon Plan. We have submitted literally thousands of pages of written comments which are part of the County's official planning record in this matter.

We are disappointed and dismayed that your Commission's Staff did not bother to involve the Toro Canyon coastal community during the many months that your Staff had to consider and revise the Toro Canyon Plan since it was submitted by Santa Barbara County. We were appalled to discover that Commission Staff had simply run out the clock, and that final Coastal Commission action must now be taken by no later than the Commission's November meeting. We are outraged that we are being excluded from full public participation in and attendance at your Commission's hearings on the Toro Canyon Plan just because your Staff has waited until the 23rd hour to place it on your agenda and release their 251 page Report and Recommendations.

And despite the fact that it is dated September 24, 2003 (the mandatory minimum ten days prior to your hearing scheduled for October 8, 2003), we simply cannot prepare an effective response to a 251 page document containing 172 major modifications to our local land use planning in this unnecessarily and unreasonably short time period. Many of us received the Coastal Commission's written notice of the October 8, 2003, Toro Canyon Plan hearing only on September 30, 2003. Few of us can travel from Toro Canyon to Coronado on short notice, since we have other jobs, families and prior obligations.

First, TORO requests that the Commission decide to hold the record open; defer all testimony and consideration of the Toro Canyon Plan now scheduled for its October 8, 2003, meeting to its November 5-7, 2003, meeting; and change the location of its November, 2003, meeting to Santa Barbara.

The Coastal Commission should hold its public hearing on the Toro Canyon Plan in the area of the coast which is under consideration in this matter, and the area where the affected public lives and works. A one month continuance with a location change to San Pedro south of Los Angeles is not sufficient to facilitate meaningful and adequate public involvement. A public hearing in November in Santa Barbara will afford time to prepare useful written comments and allow the involved and informed public a reasonable opportunity to attend and participate in the Commission's hearing on our local coastal plan.

Second, TORO requests that the Commission direct its Staff to work in Santa Barbara with Santa Barbara County Staff and the local public in order to reach agreement on an acceptable local plan for the coastal area of Toro Canyon prior to the Commission's November 5-7 meeting.

We are concerned that even deferring the Commission's hearing on the Toro Canyon Plan to November and relocating it to Santa Barbara may not sufficiently facilitate the kind of dialog and negotiations between ALL stakeholders that likely will be necessary to reach further agreement on local coastal plan modifications that satisfy the interests of the Coastal Commission, Santa Barbara County, and the people who live, work and farm in Toro Canyon.

A formal public hearing before the Commission, even if postponed to November in Santa Barbara, may not serve as an effective venue for full and useful public participation for the following reasons:

1. Allowing only five or less minutes of individual testimony by members of the public will prevent community members from addressing the many intended and unintended consequences of Commission Staffs' 172 proposed modifications;
2. New written comments offered in October and November prior to the Commission's meeting in Santa Barbara may overwhelm the attention, time, and energy of the Commission, its Staff, County Staff, and the interested public, including TORO; and
3. The Commission simply cannot, as a practical matter, absorb the County's submission, the record which supports it, and the public commentary on the Commission Staff's Report, and then make a reasonable and coherent decision in the space of one or two hearing sessions.

Given the November 27, 2003, deadline for Commission action on the Toro Canyon Plan, and given the importance to all concerned of effective and reasonable local land use planning for Coastal Zone areas, TORO recommends that the Commission take the step of directing Commission Staff to now work collaboratively with representatives of the people in the Toro Canyon coastal community and the Santa Barbara County Staff.

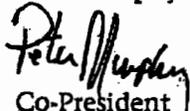
This will entail a lot of work in a short period of time. But it may be successful if the Commission makes it clear to its Staff that the interests of Santa Barbara County and of the Toro Canyon coastal community must and can be accommodated in the best practical and effective plan for protecting the important public and coastal resources in Toro Canyon.

The Toro Canyon coastal community encompasses a number of neighborhood organizations and other stakeholders who have been ignored by both Commission and County Staff during their discussions since the Toro Canyon Plan was submitted to the Commission. These people must now be included at the negotiating table: homeowner associations and groups from Padaro Lane, Torito Road, and Lambert Road; commercial farmers with nursery stock, orchards, and greenhouses; business owners on Santa Claus Lane; and, of course, TORO. In order to ensure appropriate public participation, and in order for the process to be successful, the Commission must direct that the Toro Canyon coastal community be fairly and fully represented by community members who are parties to all negotiations.

Third, the Commission must make it clear that if the negotiations of the inclusive and representative working group conducted between now and early November do not succeed at producing a mutually acceptable Toro Canyon Amendment to the existing certified Santa Barbara County Local Coastal Plan, then the Commission will simply deny to certify, rather than modify and certify, the Toro Canyon Plan submitted by Santa Barbara County.

Sincerely,

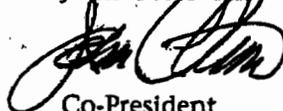
Peter Murphy



Co-President
PO Box 5246
Montecito, CA 93159

805-969-0985

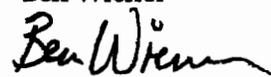
John Gostovich



Co-President
3605 Padaro Lane
Carpinteria, CA 93013

805-566-1314

Ben Wiener



Vice President
429 Lambert Road
Carpinteria, Ca 93013

805-565-1218

RECEIVED

OCT 3 2003

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

TO: California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801
Voice (805) 585-1800 Fax (805) 641-1732

RE: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02
(Toro Canyon Planning Area), Agenda Item W9a for Public Hearing at the
Wednesday, October 8, 2003, Commission Meeting in Coronado

POSITION: Reschedule Public Hearing for a Future Commission Meeting in Santa
Barbara and Hold the Record Open

FROM: Name Stephen & Janet Carlson
Address 3585 Padaro Lane, Carpinteria, CA
Phone (805) 886-5680

DATE: October 1, 2003

Please reschedule the California Coastal Commission public hearing on the Santa Barbara County Local Coastal Program Amendment for the Toro Canyon Planning Area (Case No. MAJ-3-02) to a future Commission meeting date in Santa Barbara, CA, and hold the record open.

It is unrealistic to expect that many of the ordinary people who worked for hundreds of hours over many years in the Santa Barbara County land use planning process for the Coastal Zone of Toro Canyon—including ourselves and our neighbors who faithfully and helpfully participated in innumerable local meetings, workshops, and hearings—will be able to get, read, understand, and submit written comments on the 251 pages of Commission Staff work released late last week for a hearing in the middle of next week. This isn't fair.

Scheduling the public hearing on this matter for a location about 200 miles and more than a four hour drive distant from the small Santa Barbara coastal area whose homeowners, farmers, business people, and community will be most affected by the Commission's actions makes adequate public participation impossible.

We and many of our neighbors will not be able to attend the Commission's public hearing in Coronado on October 8th. Very few of the people who live and work in the Toro Canyon Coastal Zone—people who care deeply about their community and its future, and who have much vital knowledge to contribute—are likely to be able to arrange their lives so that they can travel to Coronado in the middle of the week in order to accommodate the Commission.

Please reschedule the public hearing on this matter for a future date in Santa Barbara and hold the record open in order to facilitate meaningful public participation.

21 East Carrillo Street
Santa Barbara, CA 93101
Telephone: (805) 963-7000
Fax: (805) 564-6530



Susan F. Petrovich

Direct Dial: (805) 882-1405
SPetrovich@HatchParent.com

October 2, 2003

RECEIVED

OCT 3 2003

VIA CALIFORNIA OVERNIGHT MAIL

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission
C/O Shana Gray, Analyst
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02 (Toro Canyon Planning Area) Agenda Item 9a for Public Hearing on Wednesday, October 8, 2003

Dear Commissioners:

Michael and Mary Eades own the property located at 3050 Foothill Road. The Eades Property is located within the California Coastal Zone and the County of Santa Barbara's proposed Toro Canyon Plan area.

On behalf of the Eades, Hatch & Parent submits this letter and requests that the Commission postpone its consideration of the Toro Canyon Plan. The multitude of changes contained in the Commission's 251-page staff report are too vast and varied to sort through and consider in the short time period between its release and the proposed October 8, 2003 San Diego hearing.

The other concern associated with the hundreds of proposed changes is that the staff report appears to consider the County's extensive drafting and hearing process to have been only preliminary in nature. The proposed staff changes do not simply "fine tune" the Plan; these changes reflect dramatic policy shifts.

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California Coastal Commission
October 2, 2003
Page 2

These policy shifts affect the Eades' property and hundreds of other property owners who thought they knew the contents of the Toro Canyon Plan. With the staff suggested changes, nothing is as it seemed. The public should be allotted more time to analyze and address the proposed changes prior to Commission action.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Susan F. Petrovich".

Susan F. Petrovich
For HATCH & PARENT, A Law Corporation

SFP:imd

21 East Carillo Street
Santa Barbara, CA 93101
Telephone: (805) 963-7000
Fax: (805) 965-4333



Steven A. Amerikaner

Direct Dial: (805) 882-1407
SAmerikaner@HatchParent.com

October 2, 2003

By Facsimile

California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02
(Toro Canyon Planning Area), Agenda Item 9a for Public Hearing on
Wednesday, October 8, 2003, Commission Meeting in Coronado

Dear Commissioners:

This letter is submitted on behalf of Mr. and Mrs. Don Hromadka, owners of the property located at 3197 Padaro Lane, Santa Barbara, California. The Hromadka property is located within the boundaries of the County of Santa Barbara's proposed Toro Canyon Plan and the California Coastal Zone.

Six days ago, we obtained a copy of the California Coastal Commission's 251-page staff report relating to the Toro Canyon Plan. The Hromadkas were surprised to discover that the Commission's staff proposes the application of Monarch Butterfly Habitat designation to their property. (*See Staff Report Sec. VI, Modification 166 (B), Page 90.*) As demonstrated by the scientific record presented to the Santa Barbara County Board of Supervisors, all relevant research would indicate that such a designation is without factual basis. Indeed, it is noteworthy that there is no factual justification provided in the Staff Report for the proposed designation.

A bit of history may help the Commission understand the Hromadkas' position on this issue. Under the existing Local Coastal Plan, their property is not designated as an ESHA. An early draft of the Toro Canyon Plan prepared by staff proposed an ESHA designation for the parcel. The Hromadkas were convinced that this was based on erroneous scientific information.

Accordingly, at the January 22, 2003 County Board of Supervisors hearing, the Hromadkas submitted a letter and presented oral testimony. They presented a report dated January 8, 2002 by Dr. Walter Sakai, Professor of Biology of Santa Monica College and a recognized expert on Monarch Butterflies (copy attached). Dr. Sakai concluded that the Hromadka property is not currently a Monarch roosting site and would only become one in the

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California Coastal Commission
October 2, 2003
Page 2

future if the existing trees are cut down and new trees are planted that become suitable habitat hospitable to Monarch butterflies.

After reviewing Dr. Sakai's report and hearing the testimony, the County Board of Supervisors concluded that the Hromadka property did not have the required conditions to support Monarch Butterfly habitat and removed the designation from our property and from the Toro Canyon Plan overlay maps.

There is no evidence in the Commission's staff report that would justify reversing this decision by the Board of Supervisors. Given the very specific and onerous development restrictions that result from an ESHA designation, we believe that California law requires that any ESHA designation be supported by substantial evidence. Given the absence of any evidence to support such a designation, we submit that an ESHA designation is legally unsupportable.

Accordingly, we respectfully request that your Commission eliminate the proposed ESHA designation from the Hromadka property.

Sincerely,



Steven A. Amerikaner
For HATCH & PARENT
A Law Corporation

Enclosures

cc: Mr. and Mrs. Don Hromadka
Shana Gray, Coastal Program Analyst
Naomi Schwartz, Santa Barbara County Supervisor
Dianne Meester, Assistant Director, P&D Department

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 A PROFESSIONAL CORPORATION

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OUR FILE # 010091.1
 DIRECT DIAL # (805) 882-1407
 INTERNET: SAmericaner
 @HatchParent.com

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 GERALD B. PARENT
 S. TIMOTHY BUIYNAK
 SUSAN F. PETROVICH
 PETER N. BROWN
 STANLEY M. RODEN
 SCOTT S. SLATER
 STEVEN A. AMERIKANER
 GARY M. KVISTAD
 CHRISTOPHER A. JACOBS
 JEFFREY A. DINKIN
 JEFFERY H. SPEICH
 ROBERT J. SAPERSTEIN
 LORI LEWIS PERRY
 JOSEF D. HOUSKA
 SARAH J. KNECHT
 STEPHANIE OSLER HASTINGS
 BRADLEY E. LUNDGREN
 DEBORAH L. MARTIN

MICHELLE LEE PICKETT
 ROBIN L. LEWIS
 TIMOTHY C. HALE
 GRAHAM M. LYONS
 MICHAEL T. FIFE
 MINDY A. WOLFE
 CAROLYN L. TROKEY
 RUSSELL M. MCGLOTHLIN
 STEVEN A. JUNG
 TRAVIS PANANIDES
 ERIC M. TOKUYAMA
 KENNETH J. RICHARDSON
 CHRISTINE E. RAY
 KELLY MCINTYRE KNIGHT
 STACEY LIAKAS FELL
 CHRISTINE M. ADAMS
 THOMAS GARCIA
 TAMIYLN M. HUNT

January 21, 2002

By Hand

Chair Marshall and Members
 Santa Barbara County Board of Supervisors
 101 E. Anapamu Street
 Santa Barbara, CA 93101

Re: Toro Canyon Plan: 3197 Padaro Lane (Hromadka Property)

Dear Chair Marshall and Members of the Board:

I represent Don and Lucy Hromadka, owners of the property at 3197 Padaro Lane.

You may recall that this property is shown on the ESH map for the Toro Canyon Plan as an ESH site. The staff has reported to the Board that the presence of Monarch Butterflies some years ago is the justification for this recommendation.

The staff report for your January 22nd meeting recommends that the property at 3197 Padaro Lane be designated on the Plan Map as an "area of potential biological merit requiring further biological study for ESH delineation during an application for development." (Page 7).

We respectfully ask that the Board of Supervisors direct staff to remove any designation from 3197 Padaro Lane. In support of this recommendation, we are submitting with this letter a report from an independent biologist, Dr. Walter Sakai, Professor of Biology of Santa Monica College and a recognized expert on Monarch butterflies. Dr. Sakai's report concludes unequivocally that 3197 Padaro Lane is not a site at which Monarch butterflies are currently roosting or are likely to roost in the future. Indeed, Dr. Sakai concludes that 3197 Padaro Lane will only become a roosting site in the future if the existing trees are cut down, new trees are planted, and those new trees become a habitat hospitable to Monarch butterflies.

Given this report, we urge the Board to delete any designation from the property of 3197 Padaro Lane.

Chair Marshall and Members
Santa Barbara County Board of Supervisors
January 21, 2002
Page 2

I will plan to address your Board concerning this matter at the January 22nd meeting.

Thank you for your ongoing attention and courtesy in this matter.

Very truly yours,



Steven A. Amerikaner
For HATCH AND PARENT

SAA:olr
Enclosure

cc: Mr. & Mrs. Don Hromadka (w/enc.)
Dave Ward, Planning & Development

SANTA MONICA COLLEGE

(Letterhead is for information only)

8 Jan 2001

Mr. Steven Amerikaner, Esq.
Hatch and Parent
21 E. Carrillo Street
Santa Barbara, CA 93101

Dear Mr. Amerikaner:

As the attorney for Mr. and Mrs. Don Hromadka, you have asked for my opinion on the monarch overwintering site located at 3197 Padaro Lane in Carpenteria. My report on this site follows.

Here, I will not go into the recent history of this site with regards to the Toro Canyon Plan, as this has been previously documented. I will, however, make comments in reference to statements made regarding this site.

Here, I will also not go into my qualifications as a monarch biologist. My CV is available on request, and there are a number of staff members in the Santa Barbara Planning Department, who are familiar with my work. Their names can be provided upon request.

CONFUSION:

There has been some confusion as to what is what with regards to the various monarch overwintering site along Padaro Lane. Some of this was because some of the original descriptions came from second hand reports, and in other cases imprecise site descriptions. In any case, I was the person who initially submitted this "area" as a monarch overwintering site with the California Department of Fish and Game's Natural Diversity Database in the late 1980's. This became Site #159.

Calvert's inventory of Santa Barbara County monarch overwintering sites in 1991 called 3197 Padaro Lane his Site #89. Meade's inventory 10 year later called 3197 Padaro Lane his Site #98 instead of using Calvert's site number. To add to the confusion, Meade's report gave the wrong address, which has been corrected. It is unclear why the two did not use the existing CADFG NDDDB site number.

In any case, there are actually THREE overwintering sites within a few houses of each other. The site at 3197 Padaro Lane is the southernmost site. A few houses to the north is 3177 Padaro Lane, which is presently a large and healthy site. A few houses further to the north is 3151 Padaro Lane. 3151 Padaro Lane was discovered in 1994 but extirpated in 1998, when all of the understory vegetation was removed. At present, 3197 Padaro Lane is CADFG NDDDB site

#159. The sites at 3177 Padaro Lane and 3151 Padaro Lane have been submitted to the CADFG NDDB, but as of now there are no site numbers associated with these two sites.

SANTA MONICA COLLEGE

HISTORY of 3197 Padaro Lane:

Below is the chronological history of the site that I am aware of along with some comments (in italics)

- 1971 The property was purchased by the owner's family in 1971, and large numbers of monarch butterflies used to overwinter each winter. *Via the Hromadkas'*
- 1985 Chris Nagano (who completed the first statewide survey on Monarch butterflies for the Xerces Society) reported 5-10,000 monarchs on 10 Nov 85. This number jumped to 40,000 by 10 Dec 85.
- Late 1980's Paul Cherubini, another monarch biologist, reported (presumably) this site during casual conversations.
- During this time, I had difficulty finding this site because of the incomplete and incorrect address for this site. Second hand reports said 2900-3000 blocks of Padaro Lane
- 1989-90 Bill Calvert reported 5-8000 monarchs here during his inventory work during two site visits on 20 Jan and 27 Jan.
- 1990-91 Calvert reported 2500 monarchs during a single site visit on 25 Oct. Calvert reported that according to the neighbor monarchs also roost on her property (to the north).
Paul Cherubini reported 1000 monarchs in the fall.
The numbers dropped to 15+ by 6 Jan
- 1992-93 Cherubini reported "many" in the fall, but I found no monarchs on 14 Jan 93. It was not clear if he meant clusters or many flyers.
- 1993-94 I saw about 25 flyers on 5 Nov, and only five on 2 Jan.
- 1995-96 I saw two flyers on 13 Jan
- 1997-98 I found no monarchs on 8-9 Jan.
- 1998-99 Meade conducted his survey of Santa Barbara County. Monthly visits were made from October to March. No monarchs were seen except for two in October and 50 in November.

2000-01 I found no monarchs on 2 Jan.

2001-02 I found no monarchs on 6 Jan.

The above chronology fits the Hromadka's statement that monarchs have not used this as an overwintering site in the last 10 years.

PRESENT DESCRIPTION OF THE SITE:

The property has a north-northwest to south-southeast orientation, perpendicular to the coastline which runs northwest to southeast. Thus the adjacent property, 3191 Padaro Lane, will be considered the property to the west.

There is a long driveway along the west side of the narrow property with a single story house at the end by the beach bluff. A low, small guest bungalow is located on the property. There are about a half dozen very tall, mature trees on the property with no or little lower foliage. I am not familiar with their names except in general terms. There is an alder, a long five needle pine, a short three needle pine, a cypress, a birch(?), and a Coast Live Oak, the only native tree and the only one with a low profile.

Along the property line between 3197 and 3191 to the west is a series of small trees/large shrubs including *Myoporum* and other unidentified ornamentals. There also exists an utility line right-of-way about five feet from the property line on the 3197 Padaro side.

The ocean half of the adjacent property (3191) has very tall, mature (Monterey?) Pines, (Monterey?) Cypresses and eucalyptus trees (not Blue Gum, looks like Lemon Gum). The understory is mostly grass.

ROOSTING MONARCHS:

The fact that two or 50 monarchs were found at 3197 Padaro Lane is not any indication of monarchs using this as an overwintering site. My experience is that one can find from a few individuals to several dozen monarchs in almost any grove of coastally located trees in Santa Barbara, especially in the autumn. It is unclear what Meade meant by two or 50 butterflies. Were they simply flying about, or were the 50 monarchs in a cluster on a branch of a tree? If it was the latter, I might consider this an autumnal site, used for a short period of time in the fall months. But again, my experience in Santa Barbara is that almost any grove of coastally located trees can have a small autumnal cluster.

Based on my conversation with Dr. Hromadka, descriptions by other monarch biologists, and my site visit, the monarchs appeared to roost in the vegetation (tall shrubs/short trees) north of the driveway. Thus, it seems that technically the monarchs were roosting on vegetation belonging to the adjacent property 3191 Padaro Lane.

EXISTING THREAT to the MONARCHS:

I noted that there was quite a bit of vegetation growing under and over the utility lines, and the utility company periodically trimmed the vegetation away from the lines. This was confirmed by the Hromadkas', who stated that the trimming was done with little concern for aesthetics. I suspect no concern was given to the fact that monarchs roosted here. I presume this sort of trimming has been ongoing for decades and did not affect the monarchs when they roosted at 3197 Padaro Lane

At least three small fires have occurred due to vegetation hitting the transformer at the Padaro Lane end of the line (in the last year?), and the utility company has asked that some of the tree/vegetation be removed.

WHY HAVEN'T THE MONARCHS USED 3197 PADARO LANE:

I think it can be agreed that monarchs have not used 3197 Padaro Lane as a permanent overwintering site in the last 10 or so years. In the past, as many as 40,000 monarchs have been reported here. Why the change?

In reference to 3197 Padaro Lane, Meade's report states "...*this* has changed dramatically..." (italics mine). Mr. Hromadka's 24 Apr 2001 letter has taken the statement to mean "...**this site** has changed dramatically..." (boldface and italics mine). My impression is that Meade meant that the *usage* of this site has changed dramatically, as I do not believe he has observed this site over the last 30 years let alone since Calvert's 1990 report. But I understand the confusion.

I suspect that the change in usage by monarchs is due primarily to the growth of trees on 3197 and 3191 Padaro Lane. All of the pines and eucalyptus on 3191 Padaro Lane are very tall and spindly with no lower foliage. The same can be said for most of the trees on 3197 Padaro Lane. Meade's 1991 report essentially says the same thing. Mr. Hromadka has said that these trees have grown very tall over the last few decades.

Most large, stable overwintering sites have a dense understory of vegetation to help protect the roosting butterflies from the strong prevailing westerly winds, the sundowners common to Santa Barbara, and winter storm winds that blow. The dense understory also acts as a thermal blanket either to retain cold air or keep out warm air.

We can assume that monarchs no longer use this site because conditions are no longer suitable for the butterflies. I suspect the reason this site is no longer used is that the surrounding trees have gotten tall and spindly, and no longer block the winds and create a thermal blanket. The pines and eucalyptus trees on 3191 Padaro Lane no longer have lower foliage and no longer buffer the site from the westerly winds.

WILL THE MONARCHS RETURN TO 3197 PADARO LANE?

Scientists as a group do not like the words "always" or "never," as in monarchs will never again use 3197 Padaro Lane. Thus, Dr. Meade has stated that monarchs "could" return

and aggregate at 3197 Padaro Lane. However, I would disagree with Meade's 21 Jun 2001 statement that "...could harbor substantial aggregations in the future," if I apply the caveat "in the area present configuration."

I have seen literally hundreds of monarch sites over the last 15+ years. Some of these sites have been used for a few years, only to be abandoned due to a storm blowing down some trees or a chainsaw doing the same. After some years, some of these groves of trees gradually returns to its former configuration, and the butterflies return.

One site in Morro Bay had 10,000 monarchs from 1990-95, but in 1995 the owner cut down most of the trees and removed all of the understory vegetation in anticipation of a development. In the years to follow, development did not occur, and site visits produced a few monarchs flying about. But on a recent site visit (Jan 2002), I found over 20,000 monarchs using this site. In the last seven years, the eucalyptus grove has gradually grown back.

Based upon the above and similar observations, I suggest that monarchs will return if the site is restored to its characteristics of 20+ years ago. This would mean that the tall spindly trees on 3197 would have to be cut down and replaced. And the tall, spindly pines and eucalyptus on 3191 Padaro Lane will have to be replaced. These latter trees are probably more critical, and once they have grown sufficiently to assume a more classical conifer (or Christmas tree-like) appearance, the monarchs will likely return. The replacement of the trees on 3197 Padaro Lane will allow more morning sun to come in, allowing the monarchs to warm up on cold mornings.

Assuming that trees on both properties are replaced (highly unlikely), it will still take decades for these trees to reach sufficient stature to protect the overwintering site.

Thus, in its present condition, I would seriously doubt monarchs will return to roost at this site on 3197 Padaro Lane.

WHERE IS THE MONARCH OVERWINTERING SITE?

One of the artifacts of humans is that we have "properties" and "boundaries," things that are meaningless to the monarchs. In reality, the monarch overwinter site in this case includes both 3191 and 3197 Padaro Lane. I will readily admit that I am the culprit here, as I delineated the site boundaries to coincide with the property boundary.

The problem is illustrated by the fact that historically although the monarchs roost over 3197 Padaro Lane, they were roosting on vegetation that hung over 3197 Padaro Lane but belong to 3191 Padaro Lane. Similarly, both Calvert's and Meade's reports have made reference to trees that are not on 3197 Padaro Lane. I would go on to then suggest that although 3191 Padaro Lane is part of the overwintering site, it is likely the inland half of 3191 Padaro may not be a part.

It is likely that most monarchs seen in recent years on 3197 and 3191 Padaro Lane are simply monarchs flying about on a warm Santa Barbara day from 3177 Padaro Lane and will return there in the evening.

THREAT OF THESE TREES:

Although I am not an arborist, I am a field biologist and am familiar with what happens to very tall trees. From a practical point of view, the trees are becoming senescent. Meade essentially made the same comment in his inventory. Their very tall, spindly stature will make them more and more susceptible to wind fall, which will severely damage nearby houses. The Hromadkas' indicated one such tree hit and damaged their house in the past.

I would venture to say that the removal of the trees at 3197 Padaro Lane will not affect the site. Replacing them with smaller younger trees will enhance the site but not restore it. This can only be done by replacing the trees on 3191 Padaro Lane.

CONCLUSIONS

It is my opinion that this was a monarch overwintering site but is no longer so. Unlike other sites which were lost to human disturbances like development, or natural events like fires or winds this site seemed to have changed and became unsuitable for overwintering monarchs due to the natural changes in the existing vegetation. senescence of the trees as they grew tall and spindly.

If there are any questions, you are more than welcome to contact me at 310.434.4702 or at sakai_walter@smc.edu

Respectfully submitted,



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