

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

DATE: September 23, 2004

TO: Commissioners and Interested Persons

FROM: Charles Damm, Senior Deputy Director
Gary Timm, District Manager
Shana Gray, Coastal Program Analyst

SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-1-04 (Toro Canyon Area Plan) for Public Hearing and Commission Action at the Friday, October 15, 2004 Commission Meeting in San Diego.

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 the policies in Chapter Three of the Coastal Act pertaining to protection of agriculture. As modified the amendment is consistent with Chapter Three of the Coastal Act. The motions to accomplish this recommendation begin on **page 9**. The suggested modifications begin on **page 13**.

STAFF NOTE

This LCP amendment responds to a recent LCP amendment approved by the Coastal Commission on November 6, 2003, subject to 47 suggested modifications (see Exhibit 1). The County has crafted this amendment in response to the 47 suggested modifications with regard to the Toro Canyon Plan text and maps. As a result, the County has not reformatted the Toro Canyon Plan document but rather, the Board of Supervisors has incorporated the suggested modifications by reference in their entirety or has adapted the language of the suggested modification for further consideration by the Commission (see Exhibit 2). However, in response to two of the suggested modifications, the County has submitted the

same proposal for agricultural conversion that was denied by the Commission in November, with additional information submitted for consideration, as discussed below.

The County held a public workshop in December 2003 and four Board of Supervisor hearings from January – April 2004 revising the Toro Canyon Plan. Additionally, Commission staff and representatives of the County of Santa Barbara have met to discuss the modifications in an effort to reconcile this Local Coastal Program amendment with the requirements of the Coastal Act and the County's planning objectives. In most cases, the County's revised language does not change the original intent of the Commission's approval.

Approximately half of the November 6, 2003 suggested modifications were incorporated by reference into the revised Toro Plan by the County Board of Supervisors on April 27, 2004 in accordance with the exact language suggested by the Commission. As a result, the following issues areas were completely resolved: correlation between the County's Comprehensive Plan and the Toro Canyon Plan, correlation between the existing LCP and the Toro Canyon Plan, the incorporation by reference of implied approvals, coastal zone boundary changes, visual resources, prime soils, fuel modification, landscaping and habitat restoration, invasive species, ridgeline development, environmentally sensitive habitat area (ESHA) buffers, circulation, new development, balancing language for policy conflicts, "takings" language and economic viability determinations, development on slopes 30% or greater, land divisions, and archaeological resources.

The County's revised amendment includes numerous insignificant changes that do not change the intent of the Commission's November 6, 2003 language as well as minor modifications that represent a restructuring of language intended to accommodate the County's implementation objectives, while remaining consistent with the Coastal Act. The following topic areas underwent language changes of this nature but the modifications did not raise issue with regard to consistency with the Coastal Act: shoreline protection, public access, commercial development, ESHA mapping, general provisions and Plan implementation, stream modification, tree protection, watershed protection, trails, flood control, requirements for unauthorized vegetation removal or grading, and stream crossings.

Finally, there were other issue areas that represent substantive changes to the Commission's November 6, 2003 suggested modifications that require additional explanation, as discussed below.

Water Quality (Exhibit 2, former Modification 15): At its October 2003 hearing, the Commission voted to incorporate the County's Storm Water Management Program (SWMP) by reference into the Toro Canyon Plan, thereby relieving the burden of incorporating detailed water quality development standards into the Plan. The Commission specifically voted that such an incorporation (by reference) would not be self-implementing and any changes would not be recognized until and unless certified by the Commission by virtue of an amendment. Commission staff believes that the County's revisions to the Commission's November 6, 2003 language are minor. The County's revised language defers the determination of whether SWMP changes would require an LCP amendment due to substantive changes in the provisions for coastal

water quality protection, to the Executive Director. This would not override, or otherwise interfere with, the authority of the Commission since it is a process-related determination.

Nonconforming Structures & Uses (Exhibit 2, former Modifications 6, 26, 47): The nonconforming structure policies proposed under this LCP amendment broaden the definition as provided in the certified LCP. The Commission's November 6, 2003 approval granted limited exception to the nonconforming structure policy to allow minor additions and reconstruction in the same development envelope (footprint, height, bulk) for lawfully established nonconforming *primary residences* in Existing Developed Rural Neighborhoods within ESH buffer. These improvements would only be allowed 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 County's revised language proposes two substantive changes to the Commission's language: (1) that the above reconstruction due to normal wear and tear be applied to all structures that serve as residences, but specifically *not* including guest houses; and (2) that nonconforming agricultural support structures that are nonconforming solely as a result of requirements adopted under the Toro Canyon Plan, except where located in ESHA, be allowed partial or complete reconstruction due to normal wear-and-tear. Commission staff has revisited these issues in consultation with the County.

The agricultural support structures, pursuant to the above exception, are only allowed to be rebuilt to the same or lesser size in the same general footprint location, and may not be rebuilt as a result of normal wear and tear if located within an ESHA. Under the residential reconstruction exception, a residence may be reconstructed only where the development will not adversely impact adjacent riparian species and meets all other provisions of the Toro Canyon Plan and the certified LCP. In this case, staff is recommending the approval of the proposed language because the exceptions are limited in scope and restricted to the rebuild of existing necessary structures under limited circumstances only where these types of structures would not be permitted to adversely impact ESHA. The above limited reconstructions 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).

Additionally, Commission staff has agreed that the portion of Modification 6 (Exhibit 2) which addresses nonconforming uses may be considered unnecessary in this case since there are no proposed exceptions to the existing certified Article II, Division 10 Nonconforming Structures and Uses.

Agriculture to Residential Conversion (Exhibit 2, former Modifications 42 and 46): Though the Commission denied the proposed rezone of seven parcels from agriculture to residential on November 6, 2003, the County has resubmitted the same proposal to convert the

parcels for the following stated reasons: (1) a rural neighborhood designation is more appropriate and a designation of agriculture was likely an error at the time of the original LCP development; (2) the parcels have now been determined to be legal parcels in their present configuration and are too small to support agricultural operations; and (3) agriculture is not feasible on these parcels. In prior discussions with County staff regarding the proposed rezone of the seven parcels from Agriculture to Residential, Commission staff had indicated that a designation of AG-1-10 (rather than the previously recommended AG-1-40) could be found consistent with the Coastal Act. However, in the proposed amendment the County has retained the Residential designation previously denied by the Commission with the added provision that the alternative designation of AG-1-10 would be acceptable should the Commission not find the residential designation consistent with the Coastal Act.

Commission staff has revisited this issue but determined that there are no changed circumstances since the November 6, 2003 Commission action. 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, equivalent to that allowed under the proposed residential designation. Additionally, the proposed conversion of agricultural-zoned land to residential-zoned land on the seven parcels off of Toro Canyon Road still does not meet the Section 30241 criteria to minimize conflicts by establishing a stable limit between residential and agricultural land uses. Within the County's proposed amendment, the County approved an alternative designation of AG-1-10 in the event that the residential zoning was not consistent with the agricultural conversion requirements. Therefore, given the existing configuration and size of the lots, Commission staff is recommending that the seven agricultural parcel zoning designation be changed from the existing AG-1-40, 40-acre minimum requirement, to a new designation of AG-1-10, minimum 10-acre parcel size, consistent with the County's alternative proposal.

Certificates of Compliance (Exhibit 2, former Modification 7): Certificates of compliance grant authorization for a lot that was created through a land division that occurred previously but was unpermitted and/or illegal because it failed to comply with applicable state laws or local ordinances. The local government may issue a certificate of compliance with or without conditions after review of the parcel's conformance with the requirements of the Subdivision Map Act. Certificates of compliance fall into the category of land division and thus are development under the Coastal Act requiring a coastal development permit. The coastal development permit can only be approved if the land division is consistent with the policies of the LCP, ensuring that the land division is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

The County had retained the Commission's November 6, 2003 language, however in a simplified form. The elimination of the Commission's language is acceptable because County staff clarified that any certificates of compliance for parcels that were not created in compliance with the laws in effect at the time or were created without a necessary coastal development permit, would only receive *conditional* certificates of compliance and regular (non-conditioned) certificates of compliance could not be issued in those cases. Secondly, County staff has assured Commission staff that in the future, the Commission shall receive notification of all Conditional Certificates of Compliance.

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EXHIBITS

- Exhibit 1.** Commission's November 6, 2003 Approved Suggested Modifications (for the Toro Canyon Plan LCP Amendment 3-02)
- Exhibit 2.** County's April 27, 2004 Proposed Revisions to the Commission's November 6, 2004 Approved Suggested Modifications pursuant to LCP Amendment 1-04 (With Underline/Strikethrough)
- Exhibit 3.** County's April 27, 2004 Proposed Revisions (NoUnderline/Strikethrough)
- Exhibit 4.** ESH Map Changes Padaro Lane Butterfly Habitat (referenced by Exhibits 2-3, Modifications 43 and 45)
- Exhibit 5.** ESH Map Changes Butterfly and Kelp (referenced by Exhibits 1-3, Modifications 43 and 45)
- Exhibit 6.** ESH Map Changes Wetland and Monarch Butterfly (referenced by Exhibits 1-3, Modifications 43 and 45)
- Exhibit 7.** Urban / Rural Boundary Maps
- Exhibit 8.** County Resolution 04-111 for Proposed LUP/CP Amendments
- Exhibit 9.** Proposed Zoning Ordinance Amendments (Ordinance No. 4532)
- Exhibit 10.** Proposed Zoning Map Amendments (Ordinance No. 4533)
- Exhibit 11.** Policies Excluded From Certification (referenced by Exhibits 1-3, Modification 40)

ATTACHMENTS

Attachment A. Toro Canyon Plan

Available Online at:

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

Attachment B. County of Santa Barbara Draft Stormwater Management Program,

Available Online at: www.countyofsb.org/project_cleanwater

SUBSTANTIVE FILE DOCUMENTS: LCP Amendment 3-02 (Toro Canyon Plan), Approved by the Commission with Suggested Modifications on November 6, 2003, staff report dated October 22, 2003; 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. 04-111 of the Board of Supervisors, County of Santa Barbara, State of California, *In the matter of approving a revised amendment to the Santa Barbara County Local Coastal Program*, passed, approved, and adopted by the Board of Supervisors April 27, 2004; Ordinance 4532, Case Number 04ORD-00000-00003, adopted by Board of Supervisors April 27, 2004; Ordinance 4533, Case Number 04RZN-00000-00005, adopted by the Board of Supervisors April 27, 2004; 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., Ventura, CA. (805) 585-1800.

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 4 public meetings (January 13, January 27, March 23, and April 27, 2004) and one public workshop (December 3, 2003) after the Commission's November 6, 2003 action approving the Toro Canyon Plan with suggested modifications. Additionally, written comments were received by the County from concerned parties and members of the public. In developing the Toro Canyon Plan prior to Commission action, the County previously held 25 public hearings and two public workshops and received written comments regarding the project from concerned parties and members of the public. All 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-1-04 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-1-04 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-1-04 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-1-04 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-1-04 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-1-04 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-1-04 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-1-04 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. Suggested modifications to revise maps or figures, or other instructional changes are shown in italics.

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 within 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 that 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 11. 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, 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, 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 contains supportive narrative describing the basis for many policies. Some of these policies have been modified as a result of the revised amendment and Commission action. Consequently, the corresponding supportive narrative may no longer be relevant for

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 revised. 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.

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

The Toro Canyon Plan and 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 demonstrate that the modifications approved by the Board of Supervisors on April 27, 2004 and submitted as LCP Amendment MAJ-1-04, and as modified in this staff report, have been fully incorporated into all LUP documents.

1. Agriculture Conversion

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-10. 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.

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

All figures and maps submitted as part of the IP Amendment, including the Zoning Map and Overlays, shall demonstrate that the modifications approved by the Board of Supervisors on April 27, 2004 and submitted as LCP Amendment MAJ-1-04, and as modified in this staff report, have been fully incorporated into all IP documents.

2. Agriculture Conversion

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-10.

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 8-10 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
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.
4. Amend the Coastal Zoning Ordinance text and maps as described in the two ordinances (Ordinances 4532 & 4533, see below) approved contemporaneously with this Resolution (Case No.s 04ORD-00000-00003 and 04RZN-00000-00005).

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. PAST COMMISSION ACTION

In 2002, the County submitted amendment SBV-MAJ-3-02 to amend the LCP to designate the Toro Canyon Planning Area; add associated Toro Canyon goals, policies, actions, and development standards as described in the Toro Canyon Plan; and adopt implementing zoning district and overlay maps. On November 6, 2003, the Commission approved the Toro Canyon Plan with 43 suggested modifications to the Land Use Plan and 4 suggested modifications to the Coastal Zoning Ordinance (see Exhibit 1).

The modifications addressed a number of planning issues, including watershed protection, ESHA map and policies, reasonable use or "takings" language, nonconforming structures, visual resources, land use, certificates of compliance, shoreline protection, nonconforming structures, water quality, flood control, agriculture protection and agricultural conversion. The following summaries outline the major issues addressed in the previous Toro Canyon Plan amendment 3-02:

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. 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 of 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. 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.

Four modifications were approved by the Commission on November 6, 2003 (see Exhibit 1, Modifications 3, 8, 33, and 34) to protect watershed functions and rural character by identifying where further land use intensification is inappropriate given the steep slopes and adverse impacts to hillsides, streams, and other downstream coastal resources. The modifications prohibit 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 modifications are intended 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. Approximately half of the November 6, 2003 suggested modifications address ESH issues (see Exhibit 1, Modifications 3, 4, 6, 8, 10, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 29, 39, 31, 32, 34, 39, 43, 45, and 47).

A major point of controversy was raised with regard to the County's mapping effort. The County had proposed that the *Southern Coast Live Oak Riparian Forest ESH* be limited to the "top of creek bank only" and that the ESH buffer be measured from the "top of creek bank" in Existing Developed Rural Neighborhoods. However, 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. As a result the Commission's Modifications 19, 45, and 47 (Exhibit 1) required that the riparian corridor to be designated as ESH and that the buffer be measured from the edge of the canopy rather than the top of the creek bank. There was considerable concern on behalf of the property owners that existing lawfully constructed development in and amongst the riparian areas would be designated as ESH. However this issue is already 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, the development itself would not be considered ESH.

Reasonable Use

The Toro Canyon Plan 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. 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 Commission's November 6, 2003 language (Exhibit 1, Modifications 5, 21, and 47) provided more specific language to define reasonable use and the information needed to make an economic viability determination if an applicant asserts that the policies of the LCP or Toro Canyon Plan preclude reasonable use of property. For example, where ESH policies would preclude development on vacant parcels, and where exceptions may be necessary to avoid an unconstitutional taking of private property, the applicants may 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 allowed for 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 allowed 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.

Two of the Commission's November 6, 2003 suggested modifications (Exhibit 1, Modifications 6 and 47) allowed for limited exceptions to the nonconforming structures policies. Specifically, additions to lawfully established nonconforming *primary residences* in Existing Developed Rural Neighborhoods within ESH buffer were 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 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 area 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. To ensure that development with the Plan area does not adversely affect water quality, the Commission's November 6, 2003 language incorporated the policies and measures outlined in the County's Storm Water Management Program (SWMP) by reference (Exhibit 1, Modification 15). The SWMP is intended to serve as the mechanism for implementing water quality policies in the Toro Canyon Plan area under Coastal Act requirements.

Agriculture

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 definition 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 proposed 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 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.

The proposed 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. On November 6, 2003 the Commission denied the conversion of these agricultural parcels to residential parcels (Exhibit 1, Modifications 42 and 46).

C. PURPOSE AND BACKGROUND

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.

D. 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 (Exhibit 2, Modification 2):

The Development Standards and Actions 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. Additionally, to ensure that development standards and actions are incorporated as part of the implementation program under the Toro Canyon Plan Overlay District (TCP), Zoning Code Section 35-194 (General) incorporates all Toro Canyon Plan development standards and actions by reference within the TCP Overlay District.

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.

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 (see Exhibit 2, Modification 5) include "takings" language that provides for reasonable use and development within given site constraints and requires the Toro Canyon Plan to be implemented in a manner that does not take private property for public use without just compensation as required by applicable law. The County incorporated the Commission's November 6, 2003 suggested modifications to these policies to outline procedures for determining "reasonable use" on a case-by-case basis. 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. This is only necessary to address issues where there are conflicts with ESH policies and where exceptions may be necessary to avoid an unconstitutional taking of private property. The provisions of Sections 35-194.7, 35-194.8, and 35-194.9 (see Exhibit 2, Modification 47) 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.

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 County has incorporated November 6, 2003 Commission language (Exhibit 2, Modification 40 referencing Exhibit 11 of this report) 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. Exhibit 11 attached to this staff report identifies policies excluded from the certification process. The County has committed to incorporating this change, though the County has not reformatted the Toro Canyon Plan or indicated how this task will be accomplished. These changes will be reviewed during the certification review.

3. 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. The County has incorporated November 6, 2003 Commission language (Exhibit 2, Modification 40) to revise all maps and figures for the Toro Canyon Plan amendment to accurately depict the modified coastal zone boundary. Though the County has committed to incorporating these changes, the County has not reformatted the Toro Canyon Plan or submitted updated Land Use or Zoning Maps. The revised maps and figures will be submitted for evaluation during the Commission's certification review.

E. 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 area 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 152 (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.

Additionally, the Toro Canyon Plan 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 F.7 (Watershed Protection) of this report discusses the policies for watershed protection in further detail. 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, the County incorporated November 6, 2003 Commission language (Exhibit 2, Modifications 8 and 33), which prohibits development (including fuel modification, vegetation clearance and grading) on greater than 30% slopes, and prevents 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.

The Commission therefore finds that the proposed LUP amendment as submitted is consistent with and adequate to carryout the requirements of Section 30251 of the Coastal Act. Furthermore, the proposed IP amendment is consistent with and adequate to carryout the provisions of the LUP.

F. 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 on 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 as 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 H.8, "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 the appropriate standard for development subject to flooding within 50 feet of the top of bank of any watercourse. Ordinance No. 3095, 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, the annual maintenance plan 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. 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 chapters of the County code. DevStd FLD-TC-1.2 addresses siting of development within specific floodplains. DevStd FLD-TC-1.2 prohibits development within the floodplains unless the prohibition of development represents a loss of reasonable use of property as determined by an economic viability determination (see Exhibit 2, Modifications 30 and 47). The County incorporated November 6, 2003 modifications to these policies to outline procedures for determining "reasonable use" on a case-by-case basis. 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. The provisions of Sections 35-194.7, 35-194.8, and 35-194.9 (see Exhibit 2, Modification 47) of the Zoning Code includes ordinance provisions that specify what information must be considered to determine whether application of the policy or standard would be a taking, and if so, to determine the extent of development that must be allowed to avoid a taking.

During the course of the Toro Canyon Environmentally Sensitive Habitat (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 County has incorporated the Commission's November 6, 2003 language to map these areas as "Wetland (Not ESH)" on the ESH Map (Exhibit 2, Modifications 43 and 45). Though the County has committed to incorporating these changes, the County has not reformatted the Toro Canyon Plan or submitted updated ESH Maps. The revised maps and will be evaluated during the Commission's certification review.

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 proposed (Exhibit 2, Modification 22).

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 the amount of development subject to flood hazards is minimized, the County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 8) to prohibit 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.

Section 30236 of the Coastal Act allows for flood control projects when necessary to protect public safety or existing development. However, such projects shall be the least damaging alternative. The County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 31) to specify that 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.

See Section H.8 "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 consistent with the requirements of Section 30253 of the Coastal Act. Additionally, the proposed flood hazard implementation amendments are consistent with and adequate to carry out the LUP.

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.

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 and 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 under certain circumstances and allows for repair and maintenance of legal shoreline protective devices as long as it does not exceed the existing height or seaward extent.

The County incorporated the Commission's November 6, 2003 modifications to DevStd GEO-TC-4.3 (Exhibit 2, Modification 35) to delete language suggesting that the

replacement of a shoreline protective device is repair and maintenance and to allow shoreline and bluff protection structures only 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. The 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.

The County also incorporated November 6, 2003 Commission language (Exhibit 2, Modification 35) that 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 and require that siting and design of new shoreline development take into account anticipated future changes in sea level. Additionally DevStd GEO-TC-4.3 provides that new development, including land divisions, new beachfront and blufftop structures, significant additions, accessory structures, and septic systems shall 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. When it is determined that a shoreline protective device is necessary, the development must 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.

Due to the extreme hazards associated with development on a beach or coastal bluff, DevStd GEO-TC-4.3 requires property owners 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, property owners are required to waive any future rights to construct such device.

The County's submittal includes two sets of changes to the November 6, 2003 Commission language (Exhibit 2, Modifications 35 and 8). The first change relates to the definition of the "life" of new development. The County's LCP provides for a 75-year setback from hazards, whereas Commission's November 6, 2003 language requires 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. The County's language is consistent with the existing LCP requirements.

The second set of changes deletes the phrase "as a condition of approval" in three standards required when new development is approved on a beach or oceanfront bluff. These are minor clarifications and do not change the intent of the condition, which requires the standards to be implemented as conditions of approval in the introductory language in subsection B.

Based on the findings above, the Commission therefore finds that the proposed LUP amendments with regard to shoreline protection policies as submitted are consistent with the requirements of Section 30253 and 30235 of the Coastal Act. Additionally, the proposed shoreline protection implementation amendments are consistent with and adequate to carry out the LUP.

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. 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.

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 particularly invasive methods of flood control maintenance relied upon in the creek corridors, it is 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 damage to agricultural crops.

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.

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 rezones 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.

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.

The County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 3) to require 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.

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. The County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 8) 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%. Land divisions shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.

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 County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 29) 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. The County's amendment prohibits grading and/or development-related vegetation clearance where the slope exceeds 30 percent, with certain exceptions for driveways and utilities (Exhibit 2, Modification 33).

Additionally, the County adopted the Commission's November 6, 2003 language (Exhibit 2, Modification 33) specifying that 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. Though the County's adopted language deletes the Commission's clarifying text with regard to the need for evidence and when to make the presumption of illegal disturbance, the Toro Canyon Plan language in Modification 33 still requires a rigorous review to ensure that prior vegetation removal was not illegally removed or degraded. This would be determined

on a case-by-case basis and the facts of the removal would be under review at the time of any future application for development. Therefore staff believes this text modification does not adversely impact the intent of the Commission's November 6, 2003 suggested modifications.

Addressing Sections 30230, 30231, 30236, 30240, and 30250 of the Coastal Act, the County's revised language (Exhibit 2, Modification 34) 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 unless another alternative is environmentally preferable. 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.

Based on the findings above, the Commission therefore finds that the proposed LUP amendments with regard to watershed protection as submitted are consistent with the requirements of Sections 30230, 30231, 30233, 30240, 30250 and 30253 of the Coastal Act. Additionally, the proposed watershed protection implementation amendments are consistent with and adequate to carry out the LUP.

8. 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. The County has incorporated language from the November 6, 2003 approved suggested modifications (Exhibit 2, Modification 16) in the form of two policies relating to wastewater. These reflect 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. These policies provide 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 the County's incorporation of the November 6, 2003 language regarding confined animal facilities (Exhibit 2, 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 CCRWQCB has provided comments to the County on the August 8, 2003 SWMP and directed the County to address these comments and submit a revised SWMP by September 13,

2004. The CCC Water Quality Unit staff has reviewed the CCRWQCB's comments and the revised SWMP, and has provided comments to the County.

The County's 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.

The County has incorporated language from the November 6, 2003 approved suggested modifications (Exhibit 2, Modification 15) that requires the incorporation by reference and implementation of the SWMP. This language has been modified to ensure that any proposed changes to the SWMP are submitted to the Executive Director of the Coastal Commission for review and comment. The Executive Director then has the authority to determine if these changes are substantive and require the submittal of an LCP amendment to modify the SWMP. The County has also modified this language to reflect the current SWMP, dated September 13, 2004, and to refer to the implementation of the SWMP as updated and approved by the RWQCB. However, the Commission made it clear in their November 6, 2003 approval that an incorporation of the SWMP (by reference) would not be self-implementing. Therefore, if changes to the SWMP are updated and/or approved by the RWQCB, these changes must be submitted to the Executive Director for review and determination of the necessity for an LCP amendment. The County staff has stated that they agree with this interpretation of the policy and that any and all modifications to the SWMP must be submitted to the Executive Director, who will then determine if an LCP amendment is necessary.

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.

G. 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 (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 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. Therefore, the Commission finds that the proposed rezoning of agricultural parcels in the Plan area will increase the long-term viability as agricultural parcels consistent with Coastal Act requirements.

Within the coastal zone, development in areas with 30% slopes or greater, including mountainous parcels, is restricted. Development on such steep slopes can 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, new agriculture or agricultural development on slopes 30% or greater as provided in the County's revised Toro Canyon Plan (Exhibit 2, Modification 29).

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.

The County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 9), to protect prime soils consistent with Section 30241 and 30243, requiring 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 Section 35-194.9, Agricultural Soils (Exhibit 2, Modification 47).

5. Agriculture to Residential Conversion

Though the Commission denied the proposed rezone of seven parcels from agriculture to residential on November 6, 2003, the County has resubmitted the same proposal with the following explanation (Santa Barbara County, May 14, 2004):

Proposed Change from "Rural Area" to "Rural Neighborhood Area" and Land Use & Zoning Designations Change from 40-acre Agriculture to 2-acre Residential: The area in question is located at the northeast corner of the intersection of Toro Canyon Rd. and Foothill Rd. (State Hwy. 192). The proposed "Rural Neighborhood Area" boundary would encompass seven (7) Assessor's Parcels ranging in size from 1.0 to 5.65 acres, with a total area of about sixteen (16) acres. One parcel is vacant (155-140-013); one contains two single-family dwellings (SFDs) (155-140-038); and the other five all contain one SFD each. The largest parcel, 5.65 acres, is the one that contains two SFDs, and is the only one that could be split under the county's proposed 2-acre residential designation; such a

split would allow each existing SFD to be located on its own lot, and would not increase overall residential buildout potential, with the possible exception of one additional Residential Second Unit. It is noteworthy that such a lot split would not be guaranteed to occur under the county's proposed 2-acre Residential designation; in order to be approved, such a split would have to be found consistent with all applicable policies and standards of the LCP, including the provisions of the Toro Canyon Plan once it is certified.

The following paragraphs provide more explanation and justification for these proposed changes.

Agricultural Use and Viability: In approving this proposed change from Rural Area, 40-acre Agriculture to Rural Neighborhood, 2-acre Residential, the county asserts that this enclave of seven lots does not qualify for designation as Agriculture under Policy 8-1 of the certified Coastal Land Use Plan, which reads as follows:

"Policy 8-1: An agricultural land use designation shall be given to any parcel in rural areas that meets one or more of the following criteria:

"a. Prime agricultural soils (Capability Classes I and II as determined by the U.S. Soil Conservation Service).

"b. Other prime agricultural lands as defined in Section 51201 of the Public Resources Code (Appendix A).

"c. Lands in existing agricultural use.

"d. Lands with agricultural potential (e.g., soil, topography, and location that will support long term agricultural use).

"These criteria shall also be used for designating agricultural land use in urban areas, except where agricultural viability is already severely impaired by conflicts with urban uses." (Coastal Land Use Plan, p. 106)

The seven lots in question do not contain "prime agricultural soils" and do not otherwise qualify as "prime agricultural lands" (Policy 8-1, criteria a & b). Some of the lots do contain avocado trees, but their health and productivity is severely impaired and they do not produce nearly enough income to be considered as viable "existing agricultural use" (Policy 8-1, criteria c). Furthermore, because of the small size and other physical characteristics of these lots, they do not have any realistic "agricultural potential (e.g., soil, topography, and location that will support long term agricultural use)" (Policy 8-1, criteria d). These facts are documented in the materials submitted by the county in March and July 2003, which were prepared under contract by consulting agronomist and retired U.C. Farm Advisor George Goodall, in fulfilling the requirements of Coastal Act Sec. 30241.5.

The county essentially views the existing Rural Area, 40-acre Agricultural designations of these seven lots to be an application of inappropriate Land Use and Zoning Designations under the original LCP, and now seeks to apply the most appropriate designations of Rural Neighborhood Area, 2-acre Residential. In this context, LCP Policy 8-2 is inapplicable, since the county is merely attempting to correct an error in the original LCP.

Appropriateness of "Rural Neighborhood" and 2-acre Residential Designations: The seven parcels in this area are substantially smaller than other Rural Area parcels, with acreages of 1.0, 1.0, 1.77, 1.84, 2.0, 2.96, and 5.65 acres. As such, they are much more in character with the parcel sizes found in the

adjacent "Rural Neighborhood" area¹ encompassing the Torito Road enclave and other parcels to the north and northwest. The definition of the "Rural Neighborhood" designation in the existing certified LCP reads as follows:

"Rural Neighborhood - A neighborhood area that has developed historically with lots smaller than those found in the surrounding rural lands. The purpose of the neighborhood boundary is to keep pockets of rural residential development from expanding onto adjacent agricultural lands. Within the rural neighborhood boundary, infilling of parcels at densities specified on the land use plan maps is permitted." (Coastal Land Use Plan, Appendix B, Land Use Definitions, p. B-8)

No new legal lots have been created within this area since 1967, well before the original LCP was prepared and certified. Our research shows that one "unconditional" certificate of compliance (CC) was issued in 1982, followed by a lot line adjustment (LLA) approved in 1984. However, the CC only recognized a lot that was created by a Record of Survey recorded in 1963, and the LLA merely adjusted the boundary between two existing legal lots. No additional legal lots were created by either the CC or LLA, as this could not have been done within the nature and definition of CCs and LLAs.

It is unfortunate that various base maps and Assessor's Parcel maps through the years have shown anywhere from three (3) to five (5) parcels within this area, but the fact is that no new legal lots have been created within this area since 1967. Therefore, it is apparent that this area *"has developed historically with lots smaller than those found in the surrounding rural lands"* and that their inclusion within a "Rural Neighborhood" Boundary is appropriate. Such inclusion, by definition, would prevent this *"pocket...of rural residential development from expanding onto adjacent agricultural lands."* If this 16-acre enclave is maintained within the Rural Area with designations of 40-acre Agriculture, it would provide no more of a buffer for adjoining Rural Area Agricultural lands than it would under its proposed, most appropriate re-classification as a Rural Neighborhood Area with 2-acre Residential designations. This proposed change also would have no effect on the applicability of LCP Policy 8-2 to any potential future requests to convert other agriculturally-designated lands to non-agricultural designations or uses.

Alternative Change to 10-acre Agriculture: The county recognizes the importance of maintaining agricultural LCP designations for viable agricultural uses within the Coastal Zone, as reflected in the Coastal Act and the county's certified LCP. As previously stated, the county views this area's existing Rural Area, 40-acre Agriculture designations to be an application of inappropriate designations under the original LCP, notably including LCP Policy 8-1 and the definition of a "Rural Neighborhood" area. The county also recognizes the Coastal Commission staff's reluctance to recommend this change, because it could be seen by some as a precedent to approving other agricultural conversions in other jurisdictions around the state.

The county is hopeful that the Coastal Commission will see the logic behind the preferred amendment request and will vote to certify it as originally submitted and hereby re-submitted. However, in order to avoid a possible impasse with the Commission over this one small area within the larger Toro Canyon Plan, the Board of Supervisors has approved an alternative that would retain the existing Rural Area designation of these seven parcels, but change their Land Use Plan and zoning designations from 40-acre Agriculture to 10-acre Agriculture. This change at least would be somewhat more reflective of the small parcel sizes within this enclave, and would match the 10-acre minimum parcel size designations on Residential Ranchette and Agricultural properties to the west and south.

¹ These lots are within the "Urban Area" under the existing certified LCP; the more appropriate "Rural Neighborhood" designation is proposed under the Toro Canyon Plan LCP Amendment.

Coastal Act Requirements for Conversion of Agriculture

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:

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 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 use 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:

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.

Discussion

As described above, the County is again proposing to rezone seven parcels, comprising a total of approximately 16 acres, from agriculture (40-acre minimum parcel size) to Single Family Residential Minimum 2 acre. 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	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 orchard which is reported to being in poor condition because of the presence of Avocado Root Rot disease. Additionally an argument 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."

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 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 *potentially* allow for one additional parcel through a lot split of the 5.65-acre lot. Notably though, the County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 8) which does not allow further land divisions unless the created parcels would not result in building pads,

access roads or driveways located on slopes over 30%, or result in grading on slopes over 30%, among other requirements. The County staff has not provided an opinion as to whether a lot split would be approvable in this case. In addition to the slope requirements, the new parcel would need to be consistent with all other requirements of the Toro Canyon Plan and LCP in order to receive County approval. However, it appears that an additional lot could meet the slope requirements by use existing hardscape infrastructure and areas may have experienced disturbance from the creation of the existing homes and agricultural practices.

Conclusion

There are no changed circumstances since the November 6, 2003 Commission action. The additional information submitted by the County indicates: (1) the County has determined that all seven lots were legally created prior to the Coastal Act (though a history of parcel creation was not submitted to Commission staff) and (2) the County now views the present agricultural zoning as an error in the designation at the time of the original LCP development. The first item is helpful information to understand the cumulative impacts of a decision. However, there are other factors that must be weighed in any proposed agricultural conversion as discussed above. Secondly, the County asserts that the parcels are more appropriately designated as a rural neighborhood. The matter at hand, however, is whether the conversion from a certified zoning designation of agriculture meets the strictly defined Coastal Act requirements, not the zoning definitions in the certified LCP.

Section 30241 of the Coastal Act requires the minimization of conflicts between agricultural and urban land by meeting six criteria. Though the proposed parcels do not meet the definition of prime agricultural lands under the Coastal Act, the proposed conversion does not minimize conflicts or assure long-term productivity, and fails meet two important criteria under 30241(a) and (b).

Furthermore, 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 1 and IP Modification 2** to retain the Agriculture designation on APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058. The County has already approved the alternative designation of AG-I-10 in the event that the residential zoning was not consistent with the agricultural conversion requirements. Therefore, given the existing configuration and size of the lots, LUP Modification 2 and IP Modification 5

allow for a modified minimum parcel size, from the existing AG-I-40, 40-acre minimum requirement, to a new designation of AG-I-10, minimum 10-acre parcel size.

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.

H. 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, diaphragms, 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.

Sec. 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 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 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. 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 Agency² 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 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.

7. Environmentally Sensitive Habitat Mapping

As a result of the updated review of the Plan area as described above, the County found that 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. The ESH map is not, however, intended to definitively assign the ESH

² 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>

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 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 also 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.

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. The County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 18) to specify that a determination of the physical extent of ESH shall be based on a site-specific biological study as described in Section 35-194 (Exhibit 2, Modification 47).

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. 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. 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."

Under the County's LCP, designating the area for further biological study would not substantially differ from the regular review process, as exists outside the Rural Neighborhoods. 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.

Similarly, to address ESH mapping issue for the historic monarch site along Padaro Lane, the County is proposing a revision to the mapping required by the Commission's November 6, 2003 approval. The Commission's modifications (Exhibit 2, Modifications 43 and 45) required the parcel at 3197 Padaro Lane to be designated as ESH. The County's amendment applies the designation to the ESH map: "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review" to the above-mentioned parcel as well as six other neighboring parcels.

The Commission finds that the County's adoption of the "Areas of Significant Biological Merit" or "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review" concept itself does not provide any conflict with Section 30240 of the Coastal Act. As described above, the County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 18) to specify that a determination of the physical extent of ESH shall be based on a site-specific biological study as described in Section 35-194 (Exhibit 2, Modification 47). Both designations, "Areas of Significant Biological Merit" or "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review," identify areas that will require these site-specific studies in order to make an ESH determination at the time of application. Such a study must include detailed, site-specific information to provide adequate analysis that it is consistent with Section 30240. Though the County is opting out of making an ESH determination at the present time, the actual implementation is identical to that required for any area in and around ESH or determined to be ESH during the application review process.

Torito Road Rural Neighborhood

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. 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.

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 County adopted the Commission's November 6, 2003 language (Exhibit 2, Modifications 43 and 45) to map these areas as "Wetland (Not ESH)" on the ESH Map.

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. 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. Additionally, 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 County has adopted the Commission's November 6, 2003 language (Exhibit 2, Modifications 43 and 45) to retain the ESH designation in this area. 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.

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 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).

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), "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. Therefore to delay the ESH determination until further studies are completed, the County proposes to map the area in the vicinity as an "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review." This designation would be applied to seven neighboring parcels on Padaro Lane west of Beach Club Drive (Exhibit 4). As discussed above, this designation requires site-specific studies to be completed at the time new development is proposed in order to make an ESH determination. The requirements of such a study are roughly outlined in Section 35-194.2 (Exhibit 2, Modification 47). All properties are between the first public road and the sea and would be appealable to the Commission. On a practical level implementation is identical to that required for any area in and around ESH or determined to be ESH during the application review process.

8. 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 development adjacent to ESH to be 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 to 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. To ensure that coastal resources, including ESH, are protected consistent with Section 30230, 30231, 30240, and 30250, the County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modifications 3 and 4) 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. 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. 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, the County's amendment specifies that accessways and trails located within or adjacent to ESH must be sited to minimize impacts to ESH to the maximum extent feasible (Exhibit 2, Modification 20).

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, land divisions, including certificates of compliance, except for mergers and lot line adjustments for property which includes area within or adjacent to an ESH 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 (Exhibit 2, Modification 8).

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 meet 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 County's amendment 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. (Exhibit 2, Modification 29)

DevStd BIO-TC-1.5 provides that zoning violations that degrade ESH shall be restored pursuant to a habitat restoration plan. Additionally, the County incorporated the

Commission's November 6, 2003 language (Exhibit 2, Modification 17) to protect 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* (100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Rural Neighborhoods from the outer edge of the canopy or the top of creek bank, whichever is greater), *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.

Under the existing certified LCP, 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 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 County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 20(d)) 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 buffers were reviewed by Commission biologist and determined to be adequate in the Plan Area, and are consistent with provisions of the certified LCP. Therefore, the Commission finds that such minimum ESH buffer standards are necessary and adequate to ensure the protection of environmentally sensitive resources.

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.

As discussed previously, 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).

Consequently, the Toro Canyon Plan provides for expansion of lawfully constructed primary residences in ESH and ESH buffer when certain standards are met (Exhibit 2,

Modification 26). As proposed, Policy BIO-TC-5 makes special provisions for structural additions to primary residences for limited encroachment into ESH buffer areas only 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 the Toro Canyon Plan and the LCP.

DevStd BIO-TC-5.1 outlines the basic standards for additions or improvements to existing lawfully constructed primary residences in Existing Developed Rural Neighborhoods within ESH buffer in conformance with the following guidelines: 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 six 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; 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. d. Improvements such as decomposed granite pathways or alternative patios may be allowed on a limited basis within the driplines of the oak or sycamores if such improvements are permeable and do not compact soil in the root zone.

DevStd BIO-TC-5.2 requires development on vacant parcels containing ESH to 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 requires, to the maximum extent feasible, avoidance of ESH buffer areas.

Additionally, the reconstruction of lawfully constructed structures that serve as residences, not including guest houses, in Existing Developed Rural Neighborhoods located within ESH buffer areas may be permitted as a result of 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 (Exhibit 2, Modification 26). 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 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. This is further implemented by the County's adopted language, Modification 6 and Section 35-194.5 of the Zoning Code, implement these exceptions for additions and reconstructions to nonconforming primary residences in Rural Neighborhoods. The above exception does not include development on vacant parcels in Rural Neighborhoods. Vacant parcels would 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.

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 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.

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.

Fuel modification meets both the Coastal Act and LCP definition of development. Consequently, to avoid adverse ecosystems as a result of fuel modification, the Toro Canyon Plan has incorporated specific fire and fuel modification policies and development standards. Policy Fire-TC-1 requires coordination with the Fire Protection

Districts to maintain and improve fire prevention and protection for the residents. 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. DevStd Fire-TC-2.2 provides general siting and design guidance to minimize exposure to fire hazards and reduce the need for grading, fuel modification (including thinning and limbing of trees), and other clearance of native vegetation.

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.

DevStd BIO-TC-4.3 allows fuel modification in association with *existing* lawful development within ESH or ESH buffer where findings can be made that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible (Exhibit 2, Modification 24). 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. 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.

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. Section 30236 outlines specific requirements for stream alteration 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. The Toro Canyon Plan provides numerous policies and development standards that provide for stream protection, including buffers from development, regulation of stream alteration and flood control activities, lighting requirements adjacent to riparian areas, drainage plans and best management practices, creek crossings, trails, and native vegetation removal.

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. 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. 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 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.

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.

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. 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.

BIO-TC-11 provides that natural stream channels shall be maintained in an undisturbed state to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts, except where necessary for flood control maintenance or for habitat enhancement projects (Exhibit 2, Modification 27). To ensure that Section 30236 requirements are met, BIO-TC-11 specifically references the requirements of Modification 31 (Exhibit 2) which allows 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. Furthermore, such a project would be required to minimize impacts to coastal resources in all other respects and provide mitigation of impacts. 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. 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, flood control measures would only be allowed if proven that they will not diminish stream capacity; or adversely change percolation rates or habitat values.

DevStd FLD-TC-2.1 includes provisions to develop check dams or other erosion control features in the streams. DevStd FLD-TC-2.1 specifies that erosion control measures must be designed to avoid impacts to riparian vegetation to the maximum extent feasible. 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 above.

Recognizing that road crossings through stream channels have unavoidable impacts, the County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 34) requiring that new, or replacement stream crossings, must be via bridge. The County added qualifying language such that a bridge would be required unless another alternative is found to be environmentally preferable. 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, new roads, bridges, culverts, and outfalls

must be designed so that they do not cause or contribute to streambank or hillside erosion.

Action FLD-TC-1.5 (Exhibit 2, Modification 32) 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. Any clearing of the drainageway and culverts would be subject to the above-mentioned flood control requirements consistent with Coastal Act Section 30236. Further investigation into this problem area will include consideration of less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) 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. 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. Therefore, the County's LCP requires 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. The basic mechanism of protection is the restriction of grading activity to avoid the critical root zone of a native protected tree as described in DevStd BIO-TC 13.1 (Exhibit 2, Modification 28). The County does not believe a standard six-foot setback from the dripline is sufficient in some cases, depending on the type of tree and its location. Alternately, six feet may not be necessary in some cases, for example when the tree is on a slope and roots system is identified.

Additionally, DevStd BIO-TC-13.2 (Exhibit 2, Modification 28) requires that mitigation be provided where the removal of trees cannot be avoided by any feasible project

alternative. 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.

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. Invasive plants in landscaping 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. The County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 23) indicating that no invasive plants will be allowed in the Toro Canyon Plan area.

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 County's amendment (Exhibit 2, Modification 23) directs 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. The County's amendment (Exhibit 2, Modification 20) requires exterior night lighting to be minimized, shielded and directed away from ESH wherever lighting associated with development adjacent to ESH cannot be avoided. 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 is prohibited.

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 County incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 20) limiting the 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.

9. 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 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.

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, the County's amendment (Exhibit 2, Modification 21) 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. 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.

This is achieved through an economic viability use determination. This 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. Sections 35-194.7 et seq. of the Zoning Code (Exhibit 2, Modification 47) outlines the specific information requirements and implementation of the economic viability determination.

The Commission therefore finds that the proposed LUP amendments with regard to the protection of ESH submitted are consistent with the requirements of Section 30240 of the Coastal Act. Additionally, the proposed ESH protection implementation amendments are consistent with and adequate to carry out the LUP.

I. 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 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 association 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 actions of the Toro Canyon Plan. No dedicated and open vertical public 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 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 Garrapata 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 accept and open the vertical public beach access on Padaro Lane consistent with Coastal Act Sections 30210 through 30214. The County's adopted language varies from the Commission's November 6, 2003 language by providing more specific and clarifying language consistent with the original intent of the Commissions suggested modifications (Exhibit 2, Modification 13). The County's revised Action PRT-TC-1.3 requires consultation with local residents and other affected parties and suggests the types of appropriate improvements, such as signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, or other appropriate features for the beach access. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site. The County asserts that the present access would not require the removal of any trees, however the alignment may be slightly relocated to the west on the property, and could potentially require the removal of some trees.

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 (Exhibit 2, Modification 11) makes provisions for public access to the beach from Santa Claus Lane such that Santa Claus Lane public access 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/or securing any easements that may be necessary and appropriate. Additionally, the County proposes to ensure where feasible the provision of coastal access parking and signage and install any appropriate support facilities. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. 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. Further, the policy requires that new development include conditions and any feasible measures necessary to provide and/or protect public access.

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, the County adopted the Commission's November 6, 2003 language (Exhibit 2, Modification 20) to specify that 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. Where feasible, public accessways and trails will be located outside of ESH and ESH buffers 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. The County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 4) to specify that public access and ESH policies shall take precedence over the general policies of the LCP.

The County also adopted the Commission's November 6, 2003 language (Exhibit 2, Modification 12) to outline standards for public accessways and trails. Offers to dedicate (OTDs) public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. 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, the County's revised language provides 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.

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 management of the easement in order to open it to the public, the easement holder may transfer the easement to that entity. 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. Additionally, where there is an existing public access 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.

For the above reasons, the Commission therefore finds that the proposed LUP amendments with regard to the protection of public access submitted are consistent with the requirements of Section 30210, 30211, 30212, 30214, and 30252 of the Coastal Act. Additionally, the proposed protection implementation amendments for public access are consistent with and adequate to carry out the LUP.

J. 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 removal³ 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 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.

³ 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)

Some general policies have been included in the Land Use section of the Toro Canyon Plan to consistent with Section 30250.

The County has incorporated the Commission's November 6, 2004 language (Exhibit 2, Modification 3) 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 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.

6. 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 valid 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 within the coastal zone. The County has incorporated language to this effect in the subject amendment (Exhibit 2, Modification 7). County staff has indicated that in the future, the Commission staff shall receive notification of all Conditional Certificates of Compliance. Further, County staff clarified that any certificates of compliance meeting criteria 2 and 3 above would require *conditional* certificates of compliance and that regular certificates of compliance could not be issued in those cases.

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). The County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 8) to clarify that land divisions may not occur if they would result in adverse impacts to coastal resources.

7. 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."

The County has incorporated the Commission's November 6, 2003 language (Exhibit 2, Modification 6) to include a general guiding policy-basis for non-conforming structures in the LCP consistent with the requirements of Section 30610 and the resource protection policies of chapter three. 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. Redevelopment of blufftop and beach properties includes 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. These requirements are implemented through the language added in Section 35-194.4 Subsection 9 (Exhibit 2, Modification 47).

The proposed amendment makes one exception in the Toro Canyon Plan area for residential structures more restricted. Section 35-194.4 Subsection 1 allows for disaster replacement of residential structures and for other reasons including arson, vandalism, or other calamity beyond the control of the property owner. However, Section 35-194.4 Subsection 1 does not allow the reconstruction of detached garages if an attached garage already exists, unless evidence of use as a private garage can be provided to the Zoning Administrator.

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 of residential structures due to normal wear and tear in ESH buffer within Existing Development Rural Neighborhoods. The Commission's November 6, 2003 language (Exhibit 2, Modification 47) allowed reconstruction of primary residences *only*, to the same or less size in the same footprint, for reasons related to normal wear and tear. If the reconstructed residence is proposed to be larger, it would only be approved where, pursuant to detailed biological evaluation, such development is shown not to have adverse impacts on ESH. The County's proposed amendment made a modification to the Commission's language to broaden the exception to include reconstruction of *residential structures* as a result of normal wear and tear. Residential structures, in this case, are strictly defined as primary dwellings, secondary dwellings including residential second units, farm employee dwellings and any attached appurtenances. Guest houses are specifically eliminated from this definition.

Subsection 3 allows for the expansion of nonconforming primary residences within ESH buffer areas in Rural Neighborhood Areas in limited circumstances (Exhibit 2, Modification 47). Lawfully established primary residences would only be allowed to be expanded in these cases upward or outward and away from ESH areas consistent with the provisions of the Toro Canyon Plans and LCP. The County has made one modification to the Commission's November 6, 2003 to delete the word "legal" nonconforming. The County staff has emphatically stated that this language is redundant since any nonconforming structures that were not lawfully constructed would not be allowed to expand. Such unpermitted structures would be considered violations and would require a coastal development permit. Given these assurances, the deletion of the word legal, will not change the intent Commission's original suggested

modification and will be consistent with the remaining nonconforming structure policies. It is implicit that the same interpretation would be applied to all nonconforming

The proposed language would also allow replacement of nonconforming agricultural support structures damaged or destroyed by some calamity beyond the control of the property owner, including arson or vandalism, as described in Section 35-194.4 Subsection 4. An "agricultural support structure" is defined as "a structure that is essential to the support of agricultural production on agriculturally-zoned property." Subsection 5 provides special exceptions to the certified nonconforming structure requirements of the LCP, where agricultural support structures are nonconforming solely due to the Toro Canyon Plan except where located within an ESH area. Nonconforming agricultural support structures in these cases would be allowed to be partially or completely reconstructed or repaired for reasons related to normal wear-and-tear such as structural pest damage or dry rot, pursuant to Section 35-194.4 Subsection 5.

Additionally, the proposed amendment outlines special provisions for non-residential structures such that nonconforming nonresidential structure (e.g., detached accessory structures other than guest houses or second residential units), under certain criteria, may be reconstructed as a result of fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner.

For the above reasons, the Commission therefore finds that the proposed LUP amendment with regard to new development, disaster replacement, and nonconforming structures submitted is consistent with the requirements of Sections 30250 and 30610, of the Coastal Act. Additionally, the proposed implementation amendment for new development is consistent with and adequate to carry out the LUP.

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.

I. SUGGESTED MODIFICATIONS FOR LCP AMENDMENT 3-02 (TORO CANYON PLAN) LAND USE PLAN/COASTAL PLAN (LUP/CP)

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].

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.

1. General Provisions (GOAL LUG-TC)

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)

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)

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)

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)

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)

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)

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)

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)

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)

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)

The County shall pursue ~~P~~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 DevStd's under Policy PRT-TC-1)

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)

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)

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)

a. Pollution Development shall avoid the introduction of pollutants into of surface, ground and ocean waters. 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)

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)

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)

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)

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;

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.

- 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)

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.
- 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)

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)

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)

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)

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)

~~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.~~

26. ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5)

a. 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 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, a~~ 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 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)

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)

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)

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)

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)

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)

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)

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 as 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. 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)

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)

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.

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

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.

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

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)

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)

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,~~ fencing shall not hinder the safety or the natural movement and migration of animals and should be aesthetically pleasing.

Section V. B. ~~Where appropriate,~~ 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

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

All policies, development standards, and actions listed in Exhibit 17[Exhibit 11 of the September 2004 staff report] 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

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

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

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.

II. SUGGESTED MODIFICATIONS FOR LCP AMENDMENT 3-02 (TORO CANYON PLAN) IMPLEMENTATION PROGRAM/COASTAL ZONING ORDINANCE (IP/CZO)

44. 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.

45. ESH Map

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

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

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 noneonforming solely due to the Toro Canyon Plan: Any residential structure that is noneonforming 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. ~~Noneonforming "greenhouse development" as defined in the CA Overlay shall be subject to the provisions of the CA Overlay.~~

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

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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.

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Sec. 35-194.56 Architectural Review Standards

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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 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, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

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 that allows a deviation from a policy or standard of the LCP to provide a reasonable use 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 allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.

b. Application of the LCP policies and/or standards would unreasonably 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 avoid a taking.

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.

1. General Provisions (GOAL LUG-TC)

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)

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)

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)

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)

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.

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

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)

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)

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 ~~40-75~~ 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)

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)

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)

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, where feasible, 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/or the installation of appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 12] such as 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 feasible measures that provide or protect access and, where there is substantial evidence that historic public access exists, the project shall be conditioned to continue providing for such access.

12. Public Access & New Development (New DevStd's under Policy PRT-TC-1)

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 management 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 manage the easement. 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,

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operate, and maintain and manage the easement in accordance with terms of the recorded offer to dedicate the easement.

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

In a manner cConsistent with LUP Policy 7-8 and Coastal Act Sec.s 30210 through 30214, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall consider ~~include~~ appropriate improvements in any project to open beach access, possibly including but not necessarily limited to such as signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and or other appropriate features for the beach access, described in Policy PRT-TC- [cross reference to suggested modification 12] 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 consistent with Coastal Act Sec.s 30210 through 30214. 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)

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)

a. Pollution Development shall avoid the introduction of pollutants into of surface, ground and ocean waters. Where avoidance is not feasible, pollution the inirodution 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, as updated and approved by the Regional Water Quality Control Board, 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~~ proposed changes to the SWMP shall be submitted to the Coastal Commission Executive Director for review and comment as part of the annual SWMP review process. Any changes to the SWMP that substantively change the LCP provisions for coastal water quality protection within the Toro Canyon Plan area, as determined by the Executive Director, shall be submitted to the CCC on an annual basis as proposed 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)

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 DevStd under Policy BIO-TC-1)

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)

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)

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,

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.

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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)

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.
- b. New ~~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. Where feasible ~~Trails~~ shall be sited to the 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. When trail plans are developed and the most desirable location would result in trail segments adjacent to sensitive species habitats that may require seasonal closures, alternative trail connections shall be identified. ~~Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis.~~ Where seasonal closures occur, these alternative trail segments shall be used, ~~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)

- 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)

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)

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)

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

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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)

~~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.~~

26. ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5)

a. 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 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, a~~ 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 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~~ structures that serve as residences 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)

Except for routine Flood Control District maintenance, or for habitat enhancement projects approved by all federal and state agencies having jurisdiction, 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 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)

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.~~ Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.

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)

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)

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, unless it can be demonstrated that the foundation on fill would not increase the base flood elevation within the floodway pursuant to FEMA regulations. ~~where feasible.~~

31. Flood Control (New DevStd under Policy FLD-TC-1)

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:

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(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, or adversely change percolation rates or habitat values.

32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3)

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 investigation 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)

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 as 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. 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)

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, and where feasible replacements of existing stream crossings, shall be bridged unless another alternative is environmentally preferable. 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)

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

² For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.
EXHIBIT 2: County's April 27, 2004 Proposed Language
(Double underline/double strikethrough = Edits to the Commission's 11/6/2003 Modifications)

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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~~ For any new 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~~ For 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.

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

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)

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)

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

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.

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

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

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.

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.

Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of AG-I-4010. All figures and maps submitted as part of the LUP Amendment, including all

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figures of the Toro Canyon Plan, shall reflect this modification, where shown.

43. ESH Map (Land Use Plan)

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~~ cross-hatch labeling to indicate this is an "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review" to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)

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.

Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: "In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an 'Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.'"

NOTE: The following modifications (numbers 44-47) involve the Zoning, or Implementation Plan component of the Toro Canyon Plan. While not part of the Land Use Plan component, they are included here for illustrative purposes, and are specifically incorporated into the two contemporaneous ordinances that amend the Coastal Zoning Ordinance, as follows: (Case Nos. 04OR05-0000-00003 and 04RZ05-00000-00005)

44. 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.

45. ESH Map (Zoning)

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 cross-hatch labeling to indicate this is an "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review" to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)

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.

Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: "In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an 'Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.'"

46. Agriculture Conversion (Zoning)

Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of ~~AG-I-4010~~. All figures and maps submitted as part of the Zoning Ordinance Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

47. 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

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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;

☐ 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;

☐ 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.

Modifications to the Toro Canyon Plan Commissioned by the Board of Supervisors, November 25, 2012. The Commission's findings, recommendations and proposed language for the Toro Canyon Plan and Commission's November 25, 2012 report are included in the Toro Canyon Plan, Board of Supervisors, April 27, 2004.

Sec. 35-194.34 Findings

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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. Reconstruction of nonconforming residential structures located within Rural Neighborhood Areas and within or adjacent to an Environmentally Sensitive Habitat (ESH) area: ~~The reconstruction of a lawfully established primary residence~~ structures that serve as residences 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. 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.

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

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003 as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

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 located within a Rural Neighborhood Area and within an 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 DevStd's 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.

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, other than "Greenhouses" or "Greenhouse Related Development" located within 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. Nonconforming "Greenhouses" or "Greenhouse Related Development" located within 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, except where located within an Environmentally Sensitive Habitat (ESH) area: 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.

76. 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.

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98. Expansion of nonconforming structures located on the shore: 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.

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Sec. 35-194.56 Architectural Review Standards

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Sec. 35-194.7 Economically Viable Use

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

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 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, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

- 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 that allows a deviation from a policy or standard of the LCP to provide a reasonable use 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 allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.
- b. Application of the LCP policies and/or standards would unreasonably 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 avoid a taking.
- 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.

Note: The following was prepared by Commission staff based on the County's submitted documents because a final, unedited version was not available upon request.

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003 as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

1. General Provisions (GOAL LUG-TC)

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)

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

3. General Provisions (New Policy under LUG)

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)

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)

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.

Exhibit 3
SBV-MAJ-1-04
County's April 27, 2004
Proposed Language (w/o edits)

Note: The following was prepared by Commission staff based on the County's submitted documents because a final, unedited version was not available upon request.

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

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.

7. Certificates of Compliance (New Policy under LUG)

Conditional Certificates of Compliance shall require a coastal development permit.

8. Land Divisions (New Policy under LUG)

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 75 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)

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)

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).

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Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003 as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

11. Public Access Santa Claus Lane (Action PRT-TC-1.4)

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, where feasible, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, appropriate safety features; and/or the installation of appropriate support facilities as described in Policy PRT-TC-[cross reference to suggested modification 12] such as 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. 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 at the earliest feasible date. Permits for new development shall include conditions that incorporate feasible measures that provide or protect access and, where there is substantial evidence that historic public access exists, the project shall be conditioned to continue providing for such access.

12. Public Access & New Development (New DevStd's under Policy PRT-TC-1)

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 management 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 manage the easement. 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, maintain and manage the easement in accordance with terms of the recorded offer to dedicate the

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easement.

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

In a manner consistent with LUP Policy 7-8 and Coastal Act Sec.s 30210 through 30214, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall consider appropriate improvements in any project to open beach access, such as signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, or other appropriate features for the beach access, described in Policy PRT-TC-[cross reference to suggested modification 12]-undertaken in a manner consistent with Coastal Act Sec.s 30210 through 30214. 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)

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)

- a. Development shall avoid the introduction of pollutants into of surface, ground and ocean waters. Where avoidance is not feasible, 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 and the ocean. This shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, as updated and approved by the Regional Water Quality Control Board, which is hereby incorporated by reference into this LCP amendment. Any proposed changes to the SWMP shall be submitted to the Coastal Commission Executive Director for review and comment as part of the annual SWMP review process. Any changes to the SWMP that substantively change the LCP provisions for coastal water quality protection within the Toro Canyon Plan area, as determined by the Executive Director, shall be submitted to the CCC on an annual basis as proposed 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.

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Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

16. OSTS (New DevStd under Policy WW-TC-2)

- 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)

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)

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)

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.
- ☐ Coast Live Oak Forests - 25 feet from edge of canopy;
- ☐ Monarch butterfly habitat- minimum 50 feet from any side of the habitat;
- ☐ Native grassland, -minimum 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. The buffer for Southern Coast Live Oak Riparian Forests and streams, may be adjusted upward or downward on a case-

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.

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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 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)

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.
- b. New 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. Where feasible trails shall be sited to the 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. When trail plans are developed and the most desirable location would result in trail segments adjacent to sensitive species habitats that may require seasonal closures, alternative trail connections shall be identified. Where seasonal closures occur, these alternative trail segments shall be used.
- 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)

- 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.

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Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

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)

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)

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 utilize only non-invasive plants (see Appendix H, *List of Invasive Plants to Avoid Using in Landscape Plans*).

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)

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. 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

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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)

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)

a. 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 structural additions to the existing primary residence may be allowed 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 DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4.

b. For existing lawfully constructed primary residences in Existing Developed Rural Neighborhoods located within ESH buffer areas, structural additions shall be scaled, sited, and designed in conformance with the following standards: 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.

c. The reconstruction of a lawfully established structures that serve as residences 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)

Except for routine Flood Control District maintenance, or for habitat enhancement projects approved by all federal and state agencies having jurisdiction, natural stream channels shall be maintained in an undisturbed state in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts as allowed under Policy FLD-TC- [cross reference to suggested modification 31].

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

28. Tree Protection (DevStd BIO-TC-13.1; DevStd BIO-TC-13.2; Policy BIO-TC-14)

- 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. Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.
- 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 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)

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)

- 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. 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, unless it can be demonstrated that the foundation or fill would not increase the base flood elevation within the floodway pursuant to FEMA regulations.

31. Flood Control (New DevStd under Policy FLD-TC-1)

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 stream capacity, or adversely change percolation rates or habitat values.

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32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3)

- 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. The investigation 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 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)

- 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 as 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. 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)

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, and where feasible replacements of existing stream crossings, shall be bridged unless another alternative is environmentally preferable. 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)

- 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

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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. Repair and maintenance 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. 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. For any new 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. For 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

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

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Modification to the Land Use Plan Component of the February 25, 2002 Local Coastal Program (LCP) amendments, approved by the California Coastal Commission on November 6, 2002, and amended by the Santa Barbara County Board of Supervisors on April 17, 2003.

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.

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

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)

a. 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. 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)

Section II. C. Fences constructed along trail corridors should allow for wildlife movement.

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. Fencing shall not hinder the safety or the natural movement and migration of animals and should be aesthetically pleasing.

Section V. B. 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, 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

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

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Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

40. Non-Certified Language

All policies, development standards, and actions listed in Exhibit 17 [Exhibit 11 of the September 2004 staff report] 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

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 (Land Use Plan)

Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of AG-I-10. 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 (Land Use Plan)

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 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 cross-hatch labeling to indicate this is an "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review" to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)*

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

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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.

Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: ***"In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an 'Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.'"***

NOTES: The following modifications (numbers 44-47) involve the Zoning or Implementation Plan component of the Toro Canyon Plan. While not part of the Land Use Plan component, they are included here for illustrative purposes and are specifically incorporated into the two components of modifications to amend the Coastal Zoning Ordinance text and maps (Case No. 0240RD-00000-00005 and 0240RD-00000-00005).

44. 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.

45. ESH Map (Zoning)

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 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-cross-hatch labeling to indicate this is an "Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review" to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)*

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.*

Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: ***"In addition, the area of potential Monarch Butterfly habitat on the south side of***

Note: The following was prepared by Commission staff based on the County's submitted documents because a final, unedited version was not available upon request.

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003 as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an 'Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.'”

46. Agriculture Conversion (Zoning)

Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of AG-I-10. All figures and maps submitted as part of the Zoning Ordinance Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

47. 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. 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 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. 35-194.3 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;

☐ 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;

Note: The following was prepared by Commission staff based on the County's submitted documents because a final, unedited version was not available upon request.

Modifications to the Land Use Plan Component of the November 25, 2002 Toro Canyon Plan have been modified and approved by the California Coastal Commission on November 16, 2004. The matter is pending by the Santa Barbara County Board of Supervisors on April 27, 2004.

☐ Financial institutions;

☐ Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;

☐ 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.

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 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. Reconstruction of nonconforming residential structures located within Rural Neighborhood Areas and within or adjacent to an Environmentally Sensitive Habitat (ESH) area: Lawfully established structures that serve as residences 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. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, 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

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

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 nonconforming primary residence located within a Rural Neighborhood Area and within an Environmentally Sensitive Habitat (ESH) buffer area: Any primary residence 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 DevStd's BIO-TC-5.1 and BIO-TC-5.4 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.

4. Nonconforming agricultural support structures: Any nonconforming agricultural support structure other than "Greenhouses" or "Greenhouse Related Development" located within 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 "Greenhouses" or "Greenhouse Related Development" located within 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, except where located within an Environmentally Sensitive Habitat (ESH) area: 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. 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. Such a structure may be reconstructed 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; 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 of the nonconforming structure be denied.

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.

...

8. Expansion of nonconforming structures located on the shore: 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. 35-194.6 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 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, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.

Note: The following was prepared by Commission staff based on the County's submitted documents because a final, unedited version was not available upon request.

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003 as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

- 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 that allows a deviation from a policy or standard of the LCP to provide a reasonable use 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 allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.
 - b. Application of the LCP policies and/or standards would unreasonably 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 avoid a taking.
 - 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.

Note: The following was prepared by Commission staff based on the County's submitted documents because a final, unedited version was not available upon request.

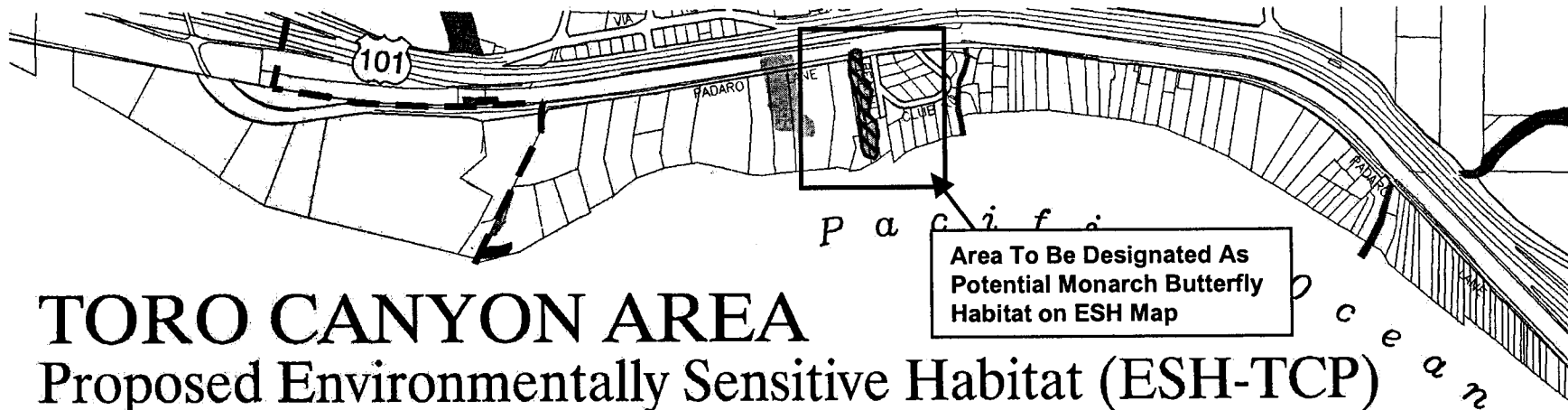
f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

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.



- Toro Canyon Area Boundary
- Wetland (ESH)
- Rocky Intertidal (ESH)
- Southern Coast Live Oak Riparian Forest or Streams (ESH)
- Coast Live Oak Forest (ESH)
- Scrub Oak Chaparral (ESH)
- Coastal Sage Scrub (ESH)
- Monarch Butterfly Habitat (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)
- Area of Potential Monarch Butterfly Habitat
 Requiring Further Study during Permit Review

NOTE: Existing agricultural support structures do not constitute ESH.

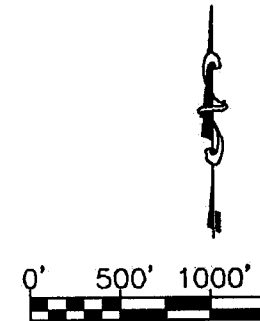
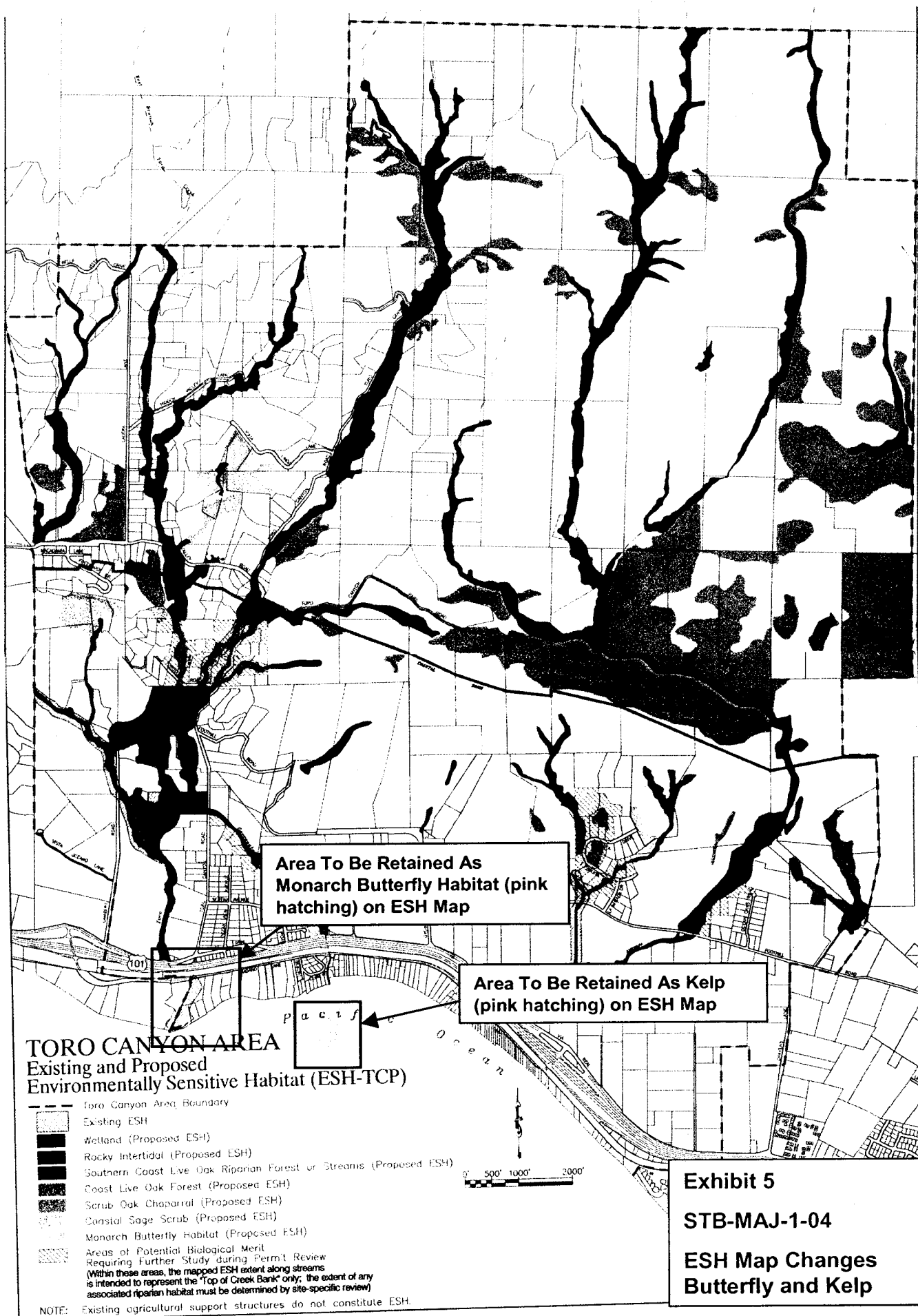
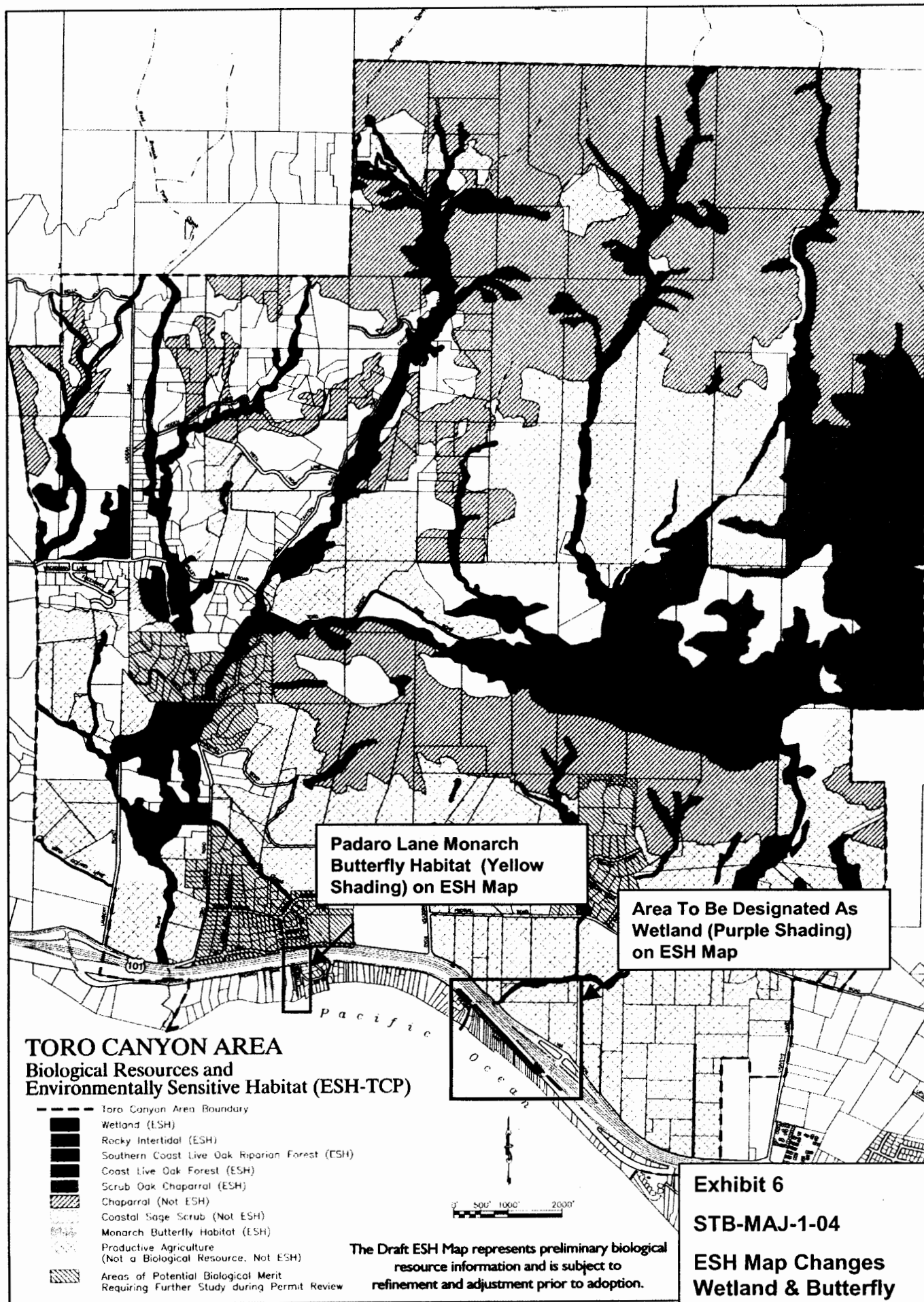
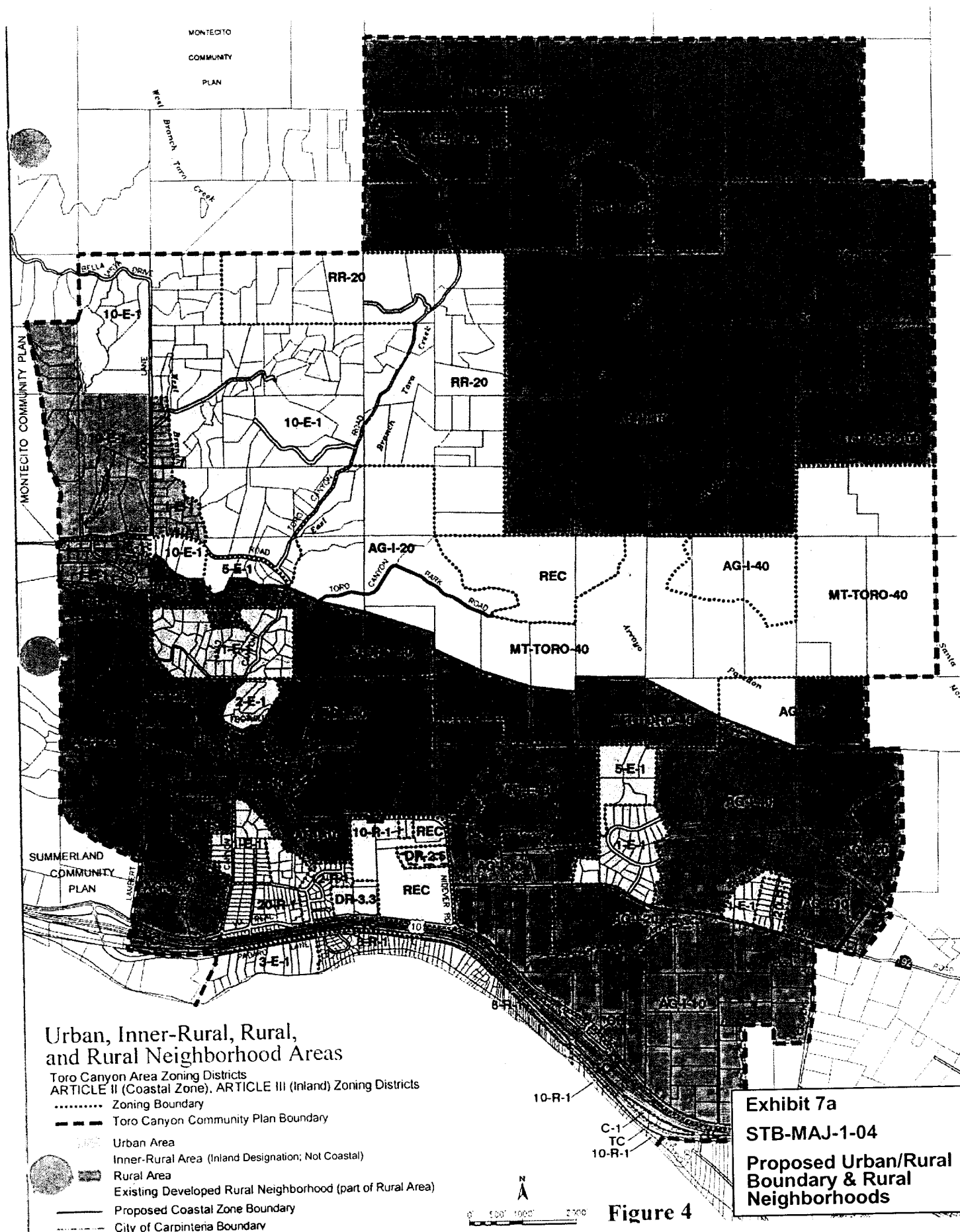


Exhibit 4
STB-MAJ-1-04
ESH Map Changes
Butterfly







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

IN THE MATTER OF APPROVING A REVISED)
AMENDMENT TO THE SANTA BARBARA)
COUNTY LOCAL COASTAL PROGRAM BY)
AMENDING THE COASTAL LAND USE PLAN)
(TEXT AND MAPS) AND COASTAL ZONING)
ORDINANCE (TEXT AND MAPS) TO INCOR-)
PORATE AND IMPLEMENT THE COASTAL)
PORTION OF THE TORO CANYON PLAN)
_____)

RESOLUTION NO.: 04-111
CASE NO.s: 04GPA-00000-00004,
04ORD-00000-00003, AND
04RZN-00000-00005

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Santa Barbara County Board of Supervisors adopted the Santa Barbara County Coastal Land Use Plan, and on July 19, 1982, by Ordinance No. 3312, the Board adopted the Coastal Zoning Ordinance (Article II of Chapter 35 of the Santa Barbara County Code), which together comprise Santa Barbara County's Local Coastal Program (LCP) as certified by the California Coastal Commission, and as said LCP has been subsequently amended from time to time by the Board of Supervisors with Coastal Commission certification.
- 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 a duly noticed public hearing pursuant to Government Code Sections 65353 and 65854, commencing on June 21, 2000 and concluding on February 21, 2001, endorsed and recommended adoption of the Toro Canyon Plan pursuant to Government Code Sections 65354 and 65855.
- D. The Board of Supervisors, after holding a duly noticed public hearing pursuant to Government Code Sections 65355 and 65856, commencing on June 5, 2001 and concluding February 25, 2002, adopted the Toro Canyon Plan on February 25, 2002 pursuant to Government Code Sections 65356 and 65857, and submitted it to the California Coastal Commission for certification of the coastal portion as an amendment to the County's Local Coastal Program (LCP) pursuant to Public Resources Code Section 30514.
- E. The California Coastal Commission, at its meeting of November 6, 2003, acted to certify the coastal portion of the Toro Canyon Plan with forty-seven (47) identified modifications to the land use plan and zoning components of the Plan.

- F. The Board of Supervisors, at duly noticed public hearings commencing on January 27, 2004 and concluding on April 27, 2004, considered the modifications suggested by the Coastal Commission and received public testimony thereon.
- G. 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 and the coastal portion of the Toro Canyon Plan as follows:
1. Amend the Coastal Land Use Plan to incorporate the Toro Canyon Plan, with modifications as described in Attachment A to this resolution.
 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;
 - 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 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.

4. Amend the Coastal Zoning Ordinance text and maps as described in the two ordinances approved contemporaneously with this Resolution (Case .No.s 04ORD-00000-00003 and 04RZN-00000-00005).

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.
4. The Planning and Development Department is hereby authorized and directed to prepare and re-submit all necessary maps, documents and other materials to the California Coastal Commission for its consideration of this revised LCP Amendment.
5. This LCP Amendment and any portions thereof approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of this Resolution or upon the date that such amendments are certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later.

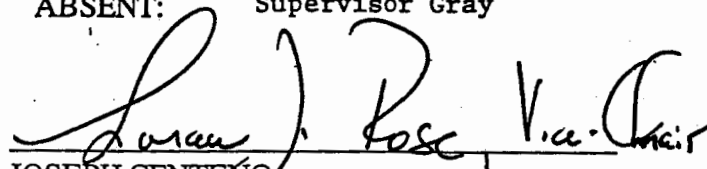
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 27th day of April, 2004, by the following vote:

AYES: Supervisor's Schwartz, Rose and Marshall

NOES: Supervisor Centeno

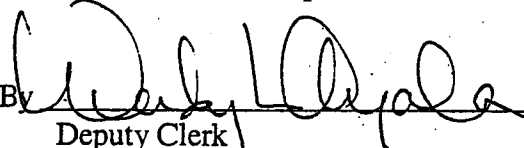
ABSTAINED: None

ABSENT: Supervisor Gray


JOSEPH CENTENO
Chair, Board of Supervisors
County of Santa Barbara

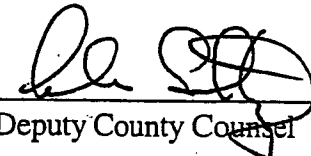
ATTEST:

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

Attachment A: Revisions to Land Use Plan component of the February 25, 2002 Toro Canyon Plan
(see Exhibit 2 of the October 2004 Staff report)

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ORDINANCE NO. 4532

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. 04ORD-00000-00003

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

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 environmentally sensitive habitat areas 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.
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 all essential 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 -320	320 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. 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 this Overlay District.

Section 35-194.2 Processing

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. 35-194.3 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;
 - 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;
 - Financial institutions;
 - Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;
 - 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.
4. "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

Doors

Simple wood

Simple wood and glass

Simple French doors

Siding

Board and batten

roofs

Beveled tongue and groove
Clapboard
Shingles

Roof Materials

Composition

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

Colors

Weathered wood
Whitewash
Neutrals
Weathered colors

Windows

"Picture"

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

Sec. 35-194.4 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. 35-194.5 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 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. Reconstruction of nonconforming residential structures located within Rural Neighborhood Areas and within or adjacent to an Environmentally Sensitive Habitat (ESH) area: Lawfully

established structures that serve as residences in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, which are damaged 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. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, 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 nonconforming primary residence located within a Rural Neighborhood Area and within an Environmentally Sensitive Habitat (ESH) buffer area: Any primary residence 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 DevStd BIO-TC-5.1 and BIO-TC-5.4 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.
4. Nonconforming agricultural support structures: Any nonconforming agricultural support structure, other than "Greenhouses" or "Greenhouse Related Development" located within 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 "Greenhouses" or "Greenhouse Related Development" located within 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, except where located within an Environmentally Sensitive Habitat (ESH) area: 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. 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. Such a structure may be reconstructed 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; 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 of the nonconforming structure be denied.

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.

7. 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.
8. Expansion of nonconforming structures located on the shore: 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.
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. 35-194.6 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 structure(s) 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.

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 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, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

- 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 that allows a deviation from a policy or standard of the LCP to provide a reasonable use 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 allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.
- b. Application of the LCP policies and/or standards would unreasonably 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 avoid a taking.

- 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.

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 and any portions thereof approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later, and before the expiration of fifteen (15) days after its passage, it, 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 published in the County of Santa Barbara.

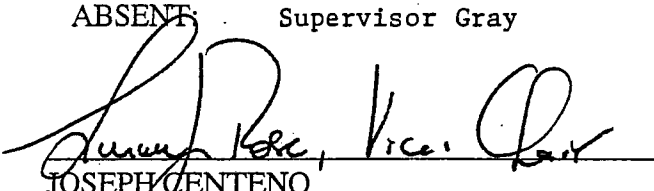
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 27th day of April 2004, by the following vote:

AYES: Supervisor's Schwartz, Rose and Marshall

NOES: Supervisor Centeno

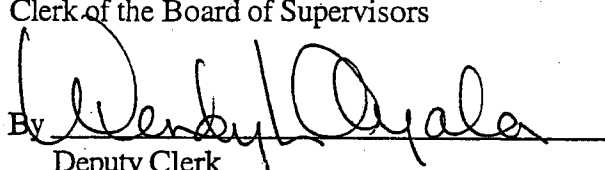
ABSTAINED: None

ABSENT: Supervisor Gray


JOSEPH CENTENO
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

ARTICLE II (REZONE ONLY)

ORDINANCE NO. 4533

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. 04RZN-00000-00005

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.

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 is hereby authorized and directed to endorse said 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 and any portions thereof approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later, and before the expiration of fifteen (15) days after its passage, it, 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 published in the County of Santa Barbara.

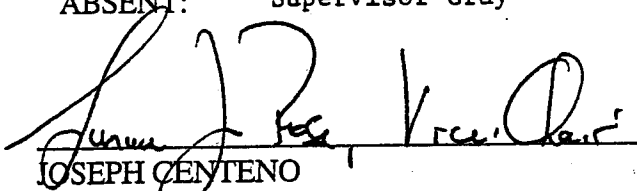
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 27th day of April, 2004, by the following vote:

AYES: Supervisor's Schwartz, Rose and Marshall

NOES: Supervisor Centeno

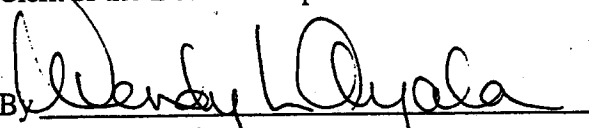
ABSTAINED: None

ABSENT: Supervisor Gray


JOSEPH CENTENO
Chair, Board of Supervisors
County of Santa Barbara

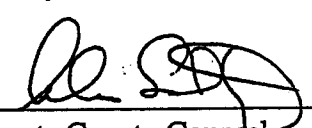
ATTEST:

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

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 11
STB-MAJ-1-04
Policies Excluded From Certification



County of Santa Barbara Planning and Development

Valentin Alexeeff, Director
Dianne Meester, Assistant Director

September 21, 2004

Mr. Mike Reilly, Chair
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, California 94105-2219

RECEIVED

SEP 23 2004

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RE: Toro Canyon Plan, Santa Barbara County LCP Amendment No. MAJ-1-04, Santa Barbara County

Dear Chair Reilly and Commissioners:

The Toro Canyon Plan was adopted by the Santa Barbara County Board of Supervisors in February 2002. In November 2003 the Coastal Commission suggested a number of modifications to the coastal part of the Plan before it could be certified as an amendment to the county's Local Coastal Program (LCP). The Board of Supervisors considered these suggested modifications in early 2004, and in April approved the re-submittal of a revised Plan for certification.

The county's re-submittal is based upon the acceptance of nearly all of the Commission's suggested modifications, either as approved by the Commission or with additional changes that were discussed and negotiated in detail with Commission staff. It is our understanding that Commission staff will recommend your approval of the revised Plan with the originally suggested and revised modifications, but that Commission staff still cannot support the county's preferred option regarding Modifications 42 & 46.

Modifications 42 & 46 respectively address the Land Use Plan and Implementation Plan (zoning) components with regard to a group of seven small lots at the northeast corner of the intersection of Toro Canyon and Foothill Roads. These lots, which range in size from 1.0 to 5.65 acres, currently are located in the Rural Area with land use and zoning designations of Agriculture I, 40-acre minimum lot size. The county's preferred option under the Toro Canyon Plan would encompass these seven lots within a Rural Neighborhood boundary, with land use and zoning designations of Residential, two-acre minimum lot size. The facts and reasoning that support this proposed change are set forth on pp. 4-6 of the May 14, 2004 cover letter for the county's re-submittal (attached).

However, the county recognizes the importance of maintaining agricultural LCP designations for viable agricultural uses within the Coastal Zone, as reflected in the Coastal Act and the county's certified LCP. The county also recognizes and understands the Coastal Commission staff's reluctance to recommend approval of this change, because it could be seen by some as a

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EXHIBIT 12

STB-MAJ-1-04

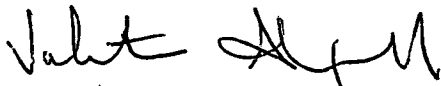
**Correspondence from
County**

precedent to approving other agricultural conversions in other jurisdictions around the state. Accordingly, as part of their action on the re-submittal this past April, the Board of Supervisors agreed to an alternative change that would retain these seven lots within the Rural Area, but only change their Agriculture I land use and zoning designations from 40-acre to 10-acre minimum lot size. This alternative change would be somewhat more reflective of the small existing parcel sizes within this enclave, and would match the 10-acre minimum parcel size designations on Residential Ranchette and Agricultural properties to the west and south.

Therefore, should the Commission reject the county's preferred option regarding Modifications 42 & 46 and instead suggest the alternative, it should do so with the understanding that the Board has already agreed to this alternative modification, authorizing me to formally accept and agree to the Commission's certification with this suggested alternative modification. Accordingly, under either option for Modifications 42 & 46 offered by the county, no additional Board consideration or re-submittal will be necessary.

County staff will be present at your Commission's hearing in San Diego in October. Questions about the matters discussed in this letter should be directed to the Toro Canyon Plan project manager, Greg Mohr, by phone at (805) 568-2080 or by e-mail to greg@co.santa-barbara.ca.us. Thank you very much for your consideration.

Sincerely,



Valentin Alexeeff, Director

Attachment

xc: Shana Gray, Gary Timm, and Charles Damm, Coastal Commission staff
Naomi Schwartz, First District County Supervisor
Alan Seltzer, Chief Assistant County Counsel
Dianne Meester, P&D Assistant Director
P&D staff (Campbell, Lackie, Mohr, Ward)
Case file
P&D chron file
Comp chron file



County of Santa Barbara Planning and Development

Valentin Alexeeff, Director
Dianne Meester, Assistant Director

May 14, 2004

Ms. Shana Gray, Coastal Program Analyst
California Coastal Commission
89 South California Street, Suite 200
Ventura, California 93001

RE: Santa Barbara County Local Coastal Program Amendment, Revised Coastal Portion of the Toro Canyon Plan, County Case Numbers 04GPA-00000-00004, 04ORD-00000-00003, and 04RZN-00000-00005

Dear Ms. Gray:

On April 27th, 2004 the Santa Barbara County Board of Supervisors took the following actions to amend the Santa Barbara County Local Coastal Program (LCP) in adopting the revised coastal portion of the Toro Canyon Plan:

- A. Approved Resolution No. 04-111 to amend the certified Santa Barbara County 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;
 - 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 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.
4. Amend the Coastal Zoning Ordinance text and maps as described in the two ordinances (Ordinances 4532 & 4533, see below) approved contemporaneously with this Resolution (Case .No.s 04ORD-00000-00003 and 04RZN-00000-00005).
- B. Approved Ordinance No. 4532 to amend the text of the Santa Barbara County Coastal Zoning Ordinance (County Code, Chapter 35, Article II), as follows:
- 1. Amend Division 4 (Zoning Districts) to add a new MT-TORO (Mountainous Area - Toro Canyon Plan) District as Section 35-94;
 - 2. Amend Division 10 (Nonconforming Structures and Uses), Section 35-162.2.d to reflect special provisions that apply within the Toro Canyon Plan area;
 - 3. 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 nonconforming structures within the Plan area, and add architectural review standards that apply throughout the Plan area.
- C. Approved Ordinance No. 4533 to amend the maps of the Santa Barbara County Coastal Zoning Ordinance (County Code, Chapter 35, Article II), as follows:
- 1. Adopt a new zoning map no. 35-54.90.0 titled, "Toro Canyon Plan Zoning Districts (Coastal Area)," thereby superseding and retiring existing maps no.s 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 a 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 a new zoning 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).

In approving Resolution No. 04-111, the Board of Supervisors also authorized and directed Planning & Development to prepare and re-submit all necessary maps, documents and other materials to the California Coastal Commission for its consideration of this revised LCP Amendment, which was originally considered by the Commission as Amendment No. MAJ-3-02.

As you know, the Coastal Commission acted on November 6, 2003 to certify the originally submitted Toro Canyon Plan with forty-seven (47) separately identified modifications. The Board's action on April 27, 2004 incorporates twenty-four (24) of these modifications as approved by the Commission and another twenty-one (21) modifications with changes. Two (2) of the modifications are rejected and re-submitted as originally proposed by the county, with a possible alternative modification that would be acceptable to the Board. This is explained below, as well as in the attached materials from the Board's public record.

Summary of Modifications

Of the 47 modifications approved by the Coastal Commission last November, the Board of Supervisors has agreed that:

- Modifications 1, 3, 4, 5, 9, 10, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 29, 36, 37, 38, 39, 40, 41, and 44 will be *accepted as suggested by the Coastal Commission*;
- Modifications 2, 6, 7, 8, 11, 12, 13, 15, 20, 26, 27, 28, 30, 31, 32, 33, 34, 35, 43, 45, and 47 will be *accepted with additional changes to those suggested by the Coastal Commission*;
- Modifications 42 and 46 will be *rejected and re-submitted as originally proposed by the county*; alternatively, if the Commission again rejects these parts of the LCP Amendment, then *a specific alternative would be acceptable* to the Board, as explained below.

All of these modifications are detailed in Attachment A to Board Resolution 04-111. The following discussion explains the rejection of Modifications 42 and 46 and the alternative modification that would be acceptable to the Board.

Proposed Change from "Rural Area" to "Rural Neighborhood Area" and Land Use & Zoning Designations Change from 40-acre Agriculture to 2-acre Residential: The area in question is located at the northeast corner of the intersection of Toro Canyon Rd. and Foothill Rd. (State Hwy. 192). The proposed "Rural Neighborhood Area" boundary would encompass seven (7) Assessor's Parcels ranging in size from 1.0 to 5.65 acres, with a total area of about sixteen (16) acres. One parcel is vacant (155-140-013); one contains two single-family dwellings (SFDs) (155-140-038); and the other five all contain one SFD each. The largest parcel, 5.65 acres, is the one that contains two SFDs, and is the only one that could be split under the county's proposed 2-acre residential designation; such a split would allow each existing SFD to be located on its own lot, and would not increase overall residential buildout potential, with the possible exception of one additional Residential Second Unit. It is noteworthy that such a lot split would not be guaranteed to occur under the county's proposed 2-acre Residential designation; in order to be approved, such a split would have to be found consistent with all applicable policies and standards of the LCP, including the provisions of the Toro Canyon Plan once it is certified.

The following paragraphs provide more explanation and justification for these proposed changes.

Agricultural Use and Viability: In approving this proposed change from Rural Area, 40-acre Agriculture to Rural Neighborhood, 2-acre Residential, the county asserts that this enclave of seven lots does not qualify for designation as Agriculture under Policy 8-1 of the certified Coastal Land Use Plan, which reads as follows:

"Policy 8-1: An agricultural land use designation shall be given to any parcel in rural areas that meets one or more of the following criteria:

- "a. Prime agricultural soils (Capability Classes I and II as determined by the U.S. Soil Conservation Service).*
- "b. Other prime agricultural lands as defined in Section 51201 of the Public Resources Code (Appendix A).*
- "c. Lands in existing agricultural use.*
- "d. Lands with agricultural potential (e.g., soil, topography, and location that will support long term agricultural use).*

"These criteria shall also be used for designating agricultural land use in urban areas, except where agricultural viability is already severely impaired by conflicts with urban uses." (Coastal Land Use Plan, p. 106)

The seven lots in question do not contain "prime agricultural soils" and do not otherwise qualify as "prime agricultural lands" (Policy 8-1, criteria a & b). Some of the lots do contain avocado trees, but their health and productivity is severely impaired and they do not produce nearly

enough income to be considered as viable "*existing agricultural use*" (Policy 8-1, criteria c). Furthermore, because of the small size and other physical characteristics of these lots, they do not have any realistic "*agricultural potential (e.g., soil, topography, and location that will support long term agricultural use)*" (Policy 8-1, criteria d). These facts are documented in the materials submitted by the county in March and July 2003, which were prepared under contract by consulting agronomist and retired U.C. Farm Advisor George Goodall, in fulfilling the requirements of Coastal Act Sec. 30241.5.

The county essentially views the existing Rural Area, 40-acre Agricultural designations of these seven lots to be an application of inappropriate Land Use and Zoning Designations under the original LCP, and now seeks to apply the most appropriate designations of Rural Neighborhood Area, 2-acre Residential. In this context, LCP Policy 8-2 is inapplicable, since the county is merely attempting to correct an error in the original LCP.

Appropriateness of "Rural Neighborhood" and 2-acre Residential Designations: The seven parcels in this area are substantially smaller than other Rural Area parcels, with acreages of 1.0, 1.0, 1.77, 1.84, 2.0, 2.96, and 5.65 acres. As such, they are much more in character with the parcel sizes found in the adjacent "Rural Neighborhood" area¹ encompassing the Torito Road enclave and other parcels to the north and northwest. The definition of the "Rural Neighborhood" designation in the existing certified LCP reads as follows:

"Rural Neighborhood - A neighborhood area that has developed historically with lots smaller than those found in the surrounding rural lands. The purpose of the neighborhood boundary is to keep pockets of rural residential development from expanding onto adjacent agricultural lands. Within the rural neighborhood boundary, infilling of parcels at densities specified on the land use plan maps is permitted." (Coastal Land Use Plan, Appendix B, Land Use Definitions, p. B-8)

No new legal lots have been created within this area since 1967, well before the original LCP was prepared and certified. Our research shows that one "unconditional" certificate of compliance (CC) was issued in 1982, followed by a lot line adjustment (LLA) approved in 1984. However, the CC only recognized a lot that was created by a Record of Survey recorded in 1963, and the LLA merely adjusted the boundary between two existing legal lots. No additional legal lots were created by either the CC or LLA, as this could not have been done within the nature and definition of CCs and LLAs.

It is unfortunate that various base maps and Assessor's Parcel maps through the years have shown anywhere from three (3) to five (5) parcels within this area, but the fact is that no new

¹ These lots are within the "Urban Area" under the existing certified LCP; the more appropriate "Rural Neighborhood" designation is proposed under the Toro Canyon Plan LCP Amendment.

legal lots have been created within this area since 1967. Therefore, it is apparent that this area *"has developed historically with lots smaller than those found in the surrounding rural lands"* and that their inclusion within a "Rural Neighborhood" Boundary is appropriate. Such inclusion, by definition, would prevent this *"pocket...of rural residential development from expanding onto adjacent agricultural lands."* If this 16-acre enclave is maintained within the Rural Area with designations of 40-acre Agriculture, it would provide no more of a buffer for adjoining Rural Area Agricultural lands than it would under its proposed, most appropriate re-classification as a Rural Neighborhood Area with 2-acre Residential designations. This proposed change also would have no effect on the applicability of LCP Policy 8-2 to any potential future requests to convert other agriculturally-designated lands to non-agricultural designations or uses.

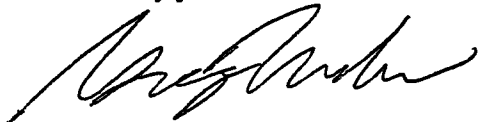
Alternative Change to 10-acre Agriculture: The county recognizes the importance of maintaining agricultural LCP designations for viable agricultural uses within the Coastal Zone, as reflected in the Coastal Act and the county's certified LCP. As previously stated, the county views this area's existing Rural Area, 40-acre Agricultural designations to be an application of inappropriate designations under the original LCP, notably including LCP Policy 8-1 and the definition of a "Rural Neighborhood" area. The county also recognizes the Coastal Commission staff's reluctance to recommend this change, because it could be seen by some as a precedent to approving other agricultural conversions in other jurisdictions around the state.

The county is hopeful that the Coastal Commission will see the logic behind the preferred amendment request and will vote to certify it as originally submitted and hereby re-submitted. However, in order to avoid a possible impasse with the Commission over this one small area within the larger Toro Canyon Plan, the Board of Supervisors has approved an alternative that would retain the existing Rural Area designation of these seven parcels, but change their Land Use Plan and zoning designations from 40-acre Agriculture to 10-acre Agriculture. This change at least would be somewhat more reflective of the small parcel sizes within this enclave, and would match the 10-acre minimum parcel size designations on Residential Ranchette and Agricultural properties to the west and south.

LCP Amendment Re-submittal Materials

As the re-submittal of an LCP Amendment that was previously reviewed by the Coastal Commission, the county is limiting the materials transmitted under this cover to those that describe the changes reflected in the re-submittal, including a record of the public participation process conducted by the county in considering and approving this re-submittal. These enclosures are listed below. In order to facilitate the Coastal Commission's certification review and best answer any questions that may arise, P&D staff would be happy to meet with you to review the enclosed materials. Please contact me directly, at (805) 568-2080 or greg@co.santa-barbara.ca.us, to arrange for such a meeting and to answer any questions regarding this revised LCP Amendment.

Sincerely yours,



Greg Mohr, Project Manager
Comprehensive Planning Division

Enclosures:

1. Details of revised LCP Amendment, consisting of Board of Supervisors Resolution 04-111 and Ordinances 4532 & Ordinance 4533.
2. Minute Orders, staff reports, and other staff presentation materials from the Board of Supervisors hearings of January 13, January 27, March 23, and April 27, 2004.
3. Copies of public notice and mailing list for the Board of Supervisors hearings commencing on January 27, 2004.
4. Copies of written correspondence and speaker's slips submitted at the Board of Supervisors hearings.
5. Copies of public notice, mailing list, and other materials regarding the community meeting held by First District Supervisor Schwartz and P&D staff on December 3, 2003.

xc (memo only):

Naomi Schwartz, First District Supervisor
Valentin Alexeeff, P&D Director
Dianne Meester, P&D Assistant Directors
Lisa Plowman and Jackie Campbell, P&D Deputy Directors
Dave Ward and David Lackie, P&D Supervising Planners
Alan Seltzer, Chief Deputy County Counsel
P&D Hearing Support
Clerk of the Board of Supervisors
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